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The Charter

FOR THE

Greater New York

And Proposed Acts Supplementary thereto as submitted to the State Legislature by the Commission on the Greater New York.

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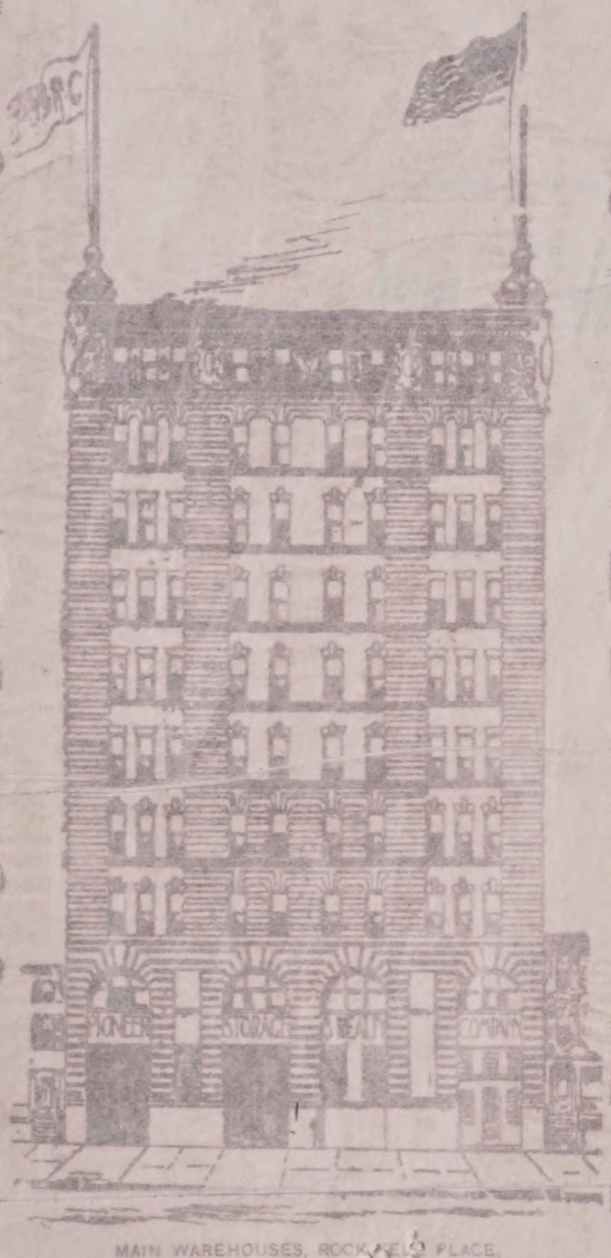

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THE CHARTER

FOR THE

GREATER NEW YORK

Report of the Commission and Acts Supplementary to the Charter as submitted to the State Legislature by the Commission on the Greater New York

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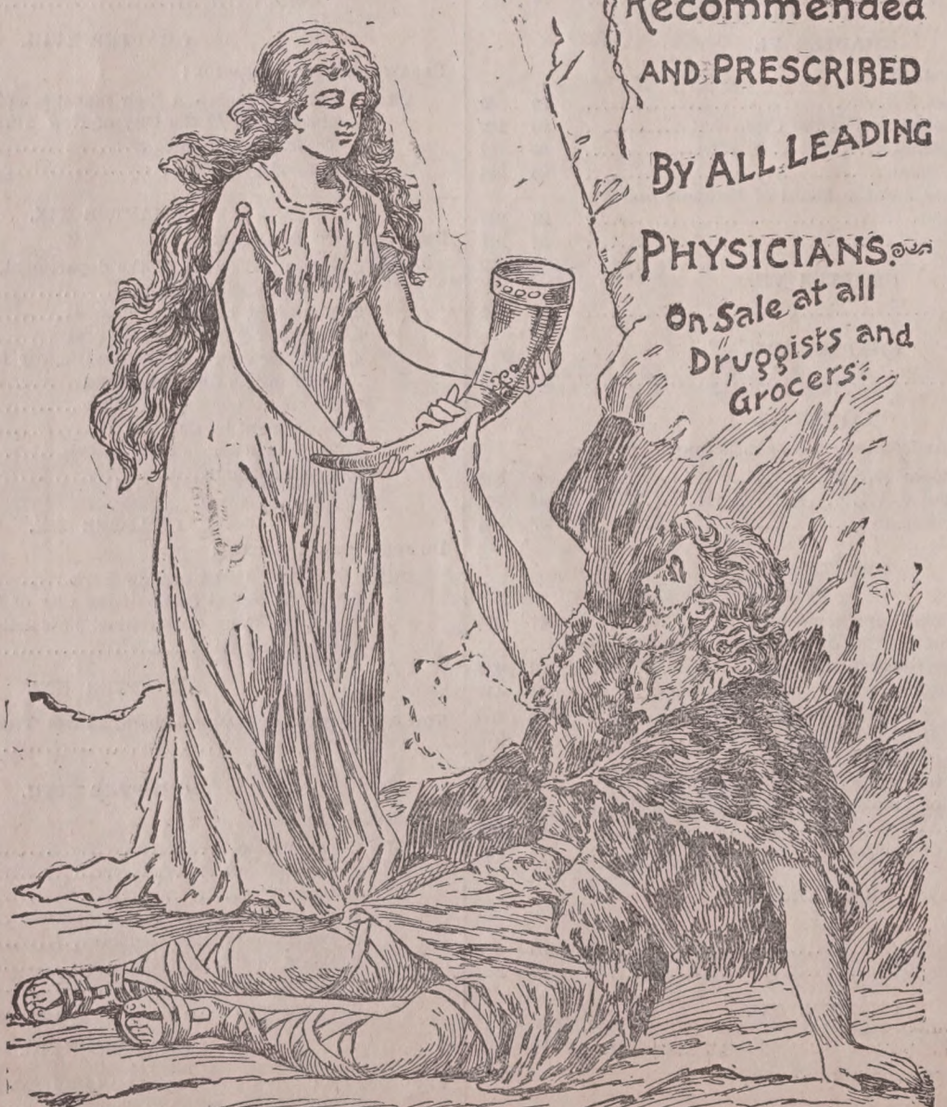

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REPORT

Accompanying the Proposed Greater New York Charter.

To the Legislature:

The commission appointed pursuant to the provisions of chapter 488 of the laws of 1896 to prepare a charter for greater New York and to submit, in connection therewith, such supplementary bills as might appear to be necessary to carry into effect the legislative intent as declared by the law under which they were appointed, respectfully submits herewith:

1. A charter for greater New York.

2. An act to provide for boards of supervisors in counties wholly within the limits of a city, but not comprising the whole of such city, and defining the powers and duties thereof.

3. An act relating to the election of city officers of the city of New York as constituted by the greater New York charter, at the general election to be held in November in the year 1897, and for the canvass and return of the votes thereof and the determination of persons elected thereat.

4. Certain amendments to chapter 909 of the laws of 1896, known as the election law, which appear to be necessary in connection with the elections to be held in 1897 and thereafter, within the territory to be consolidated into greater New York.

5. An act to provide for the election of supervisors in the several wards of the borough of Queens in the city of New York, to be members of the boards of supervisors of the county of Queens.

6. An act in relation to the city court of the city of New York and for the accommodation thereof, authorizing the fitting up and equipping of certain parts of the city hall in the city of New York.

7. A proposed constitutional amendment to authorize the municipal assembly or other legislative body of a city to discharge for counties wholly included within the limits of such city the duties at present devolved by the constitution upon boards of supervisors throughout the state.

8. A proposed constitutional amendment forbidding counties wholly included within the limits of a city to become indebted.

9. A proposed constitutional amendment authorizing laws to be passed providing in municipal elections for minority or proportionate representation.

Necessity for such supplementary legislation.

Before speaking of the charter itself, it appears to be proper to explain the necessity for the supplementary legislation suggested, and to state the reasons that have prompted the commission to submit the proposed constitional amendments.

The legislature will recall that his excellency, Governor Morton, in approving the bill under which the commission has been serving, called especial attention to the possibility as an incidental result of consolidation, of the resuscitation in the counties of New York and Kings of separate and independent boards of supervisors, and of the possible continuance in Richmond county of a board of supervisors notwithstanding the inclusion of that county within the limits of the enlarged city. This question, thus prominently brought to their attention, naturally has received from the commission the most careful consideration. The members of the commission are of one mind in believing that the creation of greater New York would be an almost unmixed misfortune, if it were to result in paralleling the city government throughout the territory of the consolidated city with a separate and independent county government in the three counties of New York, Kings and Richmond. The state constitution deals effectually with such a situation when a city and a county are literally coterminous; and probably no one will dispute that the spirit of the constitution, as expressed in the provisions dealing with that case, equally demands that the functions of the board of supervisors in the various counties included within the consolidated city of New York should be discharged by the legislative body of the city, precisely as such functions are now discharged for New York county by the board of aldermen of the city of New York, and for Kings county by the common council of Brooklyn. On the other hand, it is not clear that the letter of the constitution, by reason of its failure to provide in terms for the precise case of a city that should include within its boundaries the whole of more than one county, might not lead to serious embarrassment. Accordingly, the commission urges as a material part of the plan for the creation of greater New York the passage of the act defining the powers and duties of boards of supervisors in counties wholly within the limits of a city, but not comprising the whole of such city.

The Act provides:

1. That in such counties the boards of supervisors shall consist of the members of the municipal assembly, to be elected as such, and also as supervisors, by the people of the county.

2. That such boards of supervisors may act as county canvassers, and shall have the power conferred by the constitution upon supervisors of sub-dividing the counties into assembly districts.

3. That such boards of supervisors shall have no other power of local legislation or administration, and shall have no power to create debt.

4. All other boards of supervisors within such counties are abolished from and after January 1, 1898.

The powers of local legisnlation and administration heretofore generally possessed by boards of supervisors can, in the opinion of the commission, be vested by the legislature of the state in the municipal assembly and administrative departments of greater New York, and the charter so provides.

This act, it is believed keeps strictly within the provisions of the constitution, and, should it become a law, will obviate the apprehended embarrassments of the situation so far as an enactment that is dependent upon the legislative will can do so. With the passage of this act the commission believes that consolidation can be safely carried into effect. It also believes that the constitution of the state should be amended in order to put an end, definitely and permanently, to all danger of conflict between city and county government in a city including within its limits one or more counties, precisely as the constitution already puts an end to such conflict in the case of a city that is coterminous with a county. The commission, therefore, respectfully urges upon the legislature that it take the necessary action to bring before the people of the state, in due course, the amendment to the constitution that has been prepared to deal with this subject, and also the amendment to prevent such counties from incurring debt.

Elections in the greater city for the year 1897.

According to the law under which the commission is serving, greater New York is to be constituted on the 1st of January, 1898. It will, therefore, be necessary to hold an election for the officers of the enlarged city in the autumn of this year in the three counties of New York, Kings and Richmond and in that portion of Queens county that is to be embraced within the city of New York. In its temporary aspect this situation necessitates the passage of the act relating to the election of city officers of the city of New York as constituted by the greater New York charter at the general election to be held in November in the year 1897 and for the canvass and return of the votes thereof and the determination of persons elected thereat. Inasmuch as this election for city officers will be carried on in four different counties, it appears to be necessary, also, to amend the general election law so as to provide for the city election of 1897, and also for subsequent elections to be conducted under the same conditions. It is believed that the amendments herewith submitted to chapter 909 of the laws of 1896, known as the election law, deal adequately with that phase of the question.

Act concerning election of supervisors.

By the provisions of the greater New York charter the towns in that part of Queens county consolidated into the city, and Long Island City, become wards of the city of New York. The act to provide for the election of supervisors therein, and providing that such supervisors shall be members of the board of supervisors of the county of Queens, is thus made necessary.

It will be manifest in the legislature that all of the foregoing acts, in substance and effect, must be adopted in connection with the charter for the greater New York, if consolidation is to be effected on the 1st of January, 1898, without unspeakable confusion.

Act concerning the city court.

An act in relation to the city court of the city of New York, and for the accommodation thereof, and authorizing the fitting up and equipping of certain parts of the city hall of the city of New York, though less fundamental in importance, is no less desirable from the point of view of public convenience if the charter submitted by the commission is to be adopted. The charter provides for a municipal assembly consisting of two houses, and also for a board of public improvements which is to have very important functions in relation to all the public work of the municipality. The act submitted by the commission is intended to provide quarters for the city court of New York outside the city

hall, and to authorize the present government of the city to provide suitable quarters in the city hall for both houses of the municipal assembly and for the board of public improvements. The commission, therefore, urges the passage of this bill, also, in connection with the charter for greater New York, in the interest of public convenience.

Minority Representation.

The purpose of the second proposed constitutional amendment is to invest the legislature with authority to permit minority or proportionate representation in municipal elections. It is a source of sincere regret to the majority of the commission that under the constitution of the state, as it now stands, it has appeared to be impossible to provide for minority or proportionate representation in the charter of greater New York, without making a vital part of the charter depend upon a provision of uncertain constitutionality. Such representation is equally desirable whether the basis of division in municipal elections be political or non-political. So far, both in the history of Great Britain and of this country, the complete exclusion of politics from municipal elections has been found impossible. Many hope that in the future it may not be so. But if such expectations be realized, some basis of division on local issues will still exist representing differences of opinion, and it is important whatever such differences may be, that the minority shall be represented. The commission would have provided for the election of some members of the municipal assembly at large and for a gradual retirement of the members of one or both houses, if it could have done so with the assurance that in every year the minority, whatever that might be, would have secured under all circumstances just representation. But, in greater New York, where the political division of the citizens is so one-sided, elections wholly at large for the municipal assembly would be likely to mean, in most years, the absolute extinction of the minority. Partial elections at large in ordinary years could only tend to decrease the minority's just and proportionate weight. A method of election that should make it impossible ever to change the membership of the assembly at one time, would be apt to give the control of the municipal assembly of the city to the majority, happen what would. In the meanwhile it has seemed to the commission of the utmost consequence to the public welfare that the minority, however composed, should be represented in the municipal assembly at all times, even if it cannot hope often to secure control. The commission has, therefore, arranged in both houses of the municipal assembly for a system of representation by districts that will secure always a certain representation for the minority. The distribution and political habits of the people of the city are likely, in the judgment of the majority of the commission, often to make this representation less than it ought of right to be; and the commission, therefore, urges as strongly as possible that the amendment to the state constitution to permit minority or proportionate representation in municipal elections be placed promptly in the way of adoption. It does this, also, the more readily, because it believes, quite apart from the special conditions prevailing in greater New York, that minority or proportionate representation is in the interest of good city government. Such representation tends to emphasize the fact that, in the administration of a city, the common interests of the citizenship of the place are more fundamental than party divisions; while, in the meanwhile, it tends to preserve the interest of the minority in the effort to secure good city government by encouraging them to feel that their efforts are not useless.

The proposed charter.

In approaching the discussion of the charter herewith submitted it is proper for the commission to remind the legislature that the task imposed upon them, at once delicate and onerous as any task could be, has also been very definite and precise in its nature. The commission has not been charged with the duty of preparing a city charter at large; but, on the contrary, with the duty of preparing a charter that should unite into one city three existing cities, each living, to a considerable extent, under local laws and each with different charters; and that should also bring into the enlarged city a considerable area, besides, of territory still remaining under town and village government. The different communities thus to be consolidated into one are located upon three different islands and upon the main land, and thus they are divided geographically into natural subdivisions almost as distinct as the historic antecedents that have marked their life. Nevertheless, they are, in substance and in fact, a single community, in that they are all alike the outgrowth of the commercial and industrial life of the historic city of New York.

To have adopted for such a city what may be described as a skeleton charter, would have been to have left to the local legislature the framing of ordinances that should be the fundamental law for all the vast interests thus to be consolidated into a single government. In connection with the building department, the commission has done this, partly because it was clearly impossible to extend the building laws of the present city of New York over territory presenting such widely different conditions, and partly because the commission were unwilling to venture upon original legislation as to a subject at once so intricate, so technical, and yet so important. Moreover, few subjects afford, it is believed, a more appropriate field for local regulation. The charter, therefore, provides that the existing building laws shall stand in all parts of the consolidated territory until superseded by a municipal building code, and the municipal assembly of the city of New York is given authority to employ experts in the preparation of such a code.

But, as to most subjects, it appeared to the commissioners to be wise, in defining the powers and duties of the enlarged municipality, to avail as far as possible, and wherever it was applicable, of the legislation already upon the statute book in relation to one or the other of the cities to be consolidated into greater New York. This decision has made the charter more bulky than it otherwise would have been; but the legislature and the community may rest assured, that, for the most part, the powers and duties devolved upon the various departments of greater New York are those which have heretofore been devolved upon such departments in one or the other of the cities consolidated by the charter. The commission has ventured upon very little original legislation touching the powers of any department, unless with the general approval of those most competent to speak in relation thereto. In case of doubt as to any point, the commission generally has assumed that the existing law was the result of the past experience and ought to be maintained. Where the local laws have differed, in matters financial and relating to property, the law of New York has generally been given the preference; in matters indifferent, the best law, in the opinion of the commission, obtaining in any of the three cities has been maintained; and where immediate uniformity has been impracticable without great local irritation, if absence of uniformity could be tolerated without disloyalty to consolidation, as in the case of the department of education, the commission has done the best it could, and has not hesitated to leave to time the adjustment of points of detail as to which there has been dispute. No other course seemed to be practicable under a mandate to unite living organisms, like cities, into a new and common life.

Legislative department.

When the commission came to consider the legislative department for the greater city, diverse and conflicting views and plans were urged for adoption.

The general judgment was that a municipal legislative assembly was not only necessary, but indispensible. But as to the constitution, size and powers of such an assembly conflicting views are also presented and urged. Some advised the constitution of the municipal assembly substantially upon the model of the English system, where an elective municipal council, usually elected from wards or subdivisions, is invested with the exercise, without restraint, of all the powers which parliament grants or the law gives to the municipal corporation. It elects the mayor from its own members, and appoints all its officers. Through standing committees it controls without exception all the administrative departments.

Others strenuously urged that American polity and experience are against the adoption of the English plan en bloc, and that the powers of the municipal assembly ought to be limited in number and extent, and the exercise of the powers conferred be subjected to appropriate and effective charter limitations. analogous in principle and purpose to the restrictions which the American constitutions impose upon the state legislatures.

The charter scheme of the municipal assembly.

This general plan commended itself to the commission, and is embodied in the charter which it now submits to the legislature.

The commission found that the municipal history of New York afforded on almost every subject useful and instructive lessons, of which it has studiously availed itself. For example, the body known as the board of estimate and apportionment has worked well and given general satisfaction. The commission has retained it and enlarged rather than lessened its powers. So the principle of investing the mayor with large powers and consequent direct responsibility to the people had also worked well, and his authority has been increased rather than diminished. His term of office is four years and he is made ineligible for re-election without an intervening term.

The commission has, however, converted the present board of aldermen into a municipal assembly, consisting of two houses; an upper house of twenty-nine members, elected from large council districts, containing an average population of more than 350,000, and a lower house, consisting of sixty members, one elected from each assembly district, also a large area, containing an average population of 50,000. The term of office of members of the upper house is four years, and of the lower house two years.

Each ex-mayor, under the proposed charter,

is ex officio entitled to a seat in the council, with the right to participate in its discussions; and each administrative head of a department to a seat in the lower house, with a like privilege.

It may be objected that the size of the municipal assembly is unnecessarily large. This objection, when it is considered that upon the adoption of the charter New York will in size and population become the second city of the world, is not well founded. Experience shows that it is more difficult to corrupt, to mislead and to form pernicious combinations in large than in small legislative bodies. It is not nearly as large as the average legislative bodies in this country dealing with people less numerous and subjects not more important. The experience of other countries is almost uniform to this effect. The present common council of the city of London is composed of 232 members; county council of London is composed of 238 members; the common council of Manchester, 104; of Glasgow, 78; of Liverpool, 64; of Paris, 80; of Berlin, 126, and of Vienna, 138.

The charter has been constructed upon the principle that it is expedient to give to the city all the powers necessary to conduct its own affairs. The commission has accordingly conferred upon the municipal assembly legislative authority over all the usual subjects of municipal jurisdiction. The extent and variety of its powers, as well as its size, mark the commission's sense of its dignity and importance.

With a view of self development, the commission has intrusted the new city with power to establish ferries; to build bridges over and tunnels under all waters within its domain; to build docks and improve the harbor of the entire city; to construct parks, school houses and public buildings; to open streets and extend them; to provide water; and also the means of securing easy, cheap and rapid communication by ferry and railways between all parts of the great metropolis. The city, as the commission has constituted it, has within itself all the elements and powers of normal growth and development, making it unnecessary to have habitual recourse, as hitherto, to the legislature of the state for additional powers—a serious evil, and, in the past, the source of much abuse. These powers — great, varied and even complex, as they necessarily are—will, when scrutinized, be seen to be no greater than the city requires and to be always legislative in their character. They are such as the municipalities of England and of Europe, as well as of this country, constantly exercise.

This does not mean that under the proposed charter the city can change the structure of its own government. Whatever powers it will have it will receive as a grant from the state to enjoy in the form that they are given, and the state alone can modify the grant. Neither does it mean that the city can do what it will in every possible direction. It is tied up in many ways by old laws that are continued, because they have been justified by experience. But it does mean that the city is believed to be equipped with power to decide for itself what it will do within the well recognized range of ordinary municipal activity.

But, while the charter thus confers upon the municipal assembly powers adequate to the present wants and to the future development of the city, it interposes, in accordance with established American polity, a variety of checks and safeguards against their abuse, similar in their nature and purpose to the constitutional limitations upon the congress of the United States and the legislatures of the several states. No people can enjoy a large degree of liberty and the necessary powers of government in which that liberty consists, without such powers being liable to abuse. It is the duty of the legislator not to withhold the necessary power, but sedulously to safeguard its exercise. To provide such safeguards has been the subject of anxious consideration on the part of the commission. The legislative experience of New York and other cities, and of the several states—indeed, of all popular bodies—shows that a main source of abuse is hasty or ill advised action, especially as respects the power to dispose of franchises and those powers which involve the raising and expenditure of money, the creation of debt and the consequent levy of taxes and the placing of other financial burdens upon the people.

It is a marked feature of the charter now presented that it differentiates the powers relating to franchises, the creation of debt, the expenditures of money, the laying of taxes and assessments—these being the only powers liable to serious abuse—from the ordinary powers of the municipality embracing the countless subjects requiring municipal regulation. The former class of powers the commission has protected against abuse by special and appropriate safeguards—safeguards which are in some respects unique, and which will in its judgment prove effective. Thus, as to franchises and their disposition, the charter proposes a radical change of the highest importance and value. The streets of the city belong of right to the whole people. Their use for the public benefit and their control in the public interest ought never to be permanently parted with in favor of any private interests whatever. The charter, therefore, declares that they are inalienable, and that no rights therein shall hereafter be granted by the municipal assembly except upon the approval of the board of estimate and apportionment, and then only for limited periods, and upon provision being made for periodical revaluations.

Hereafter, therefore, no disposition of franchises, even for such limited periods, can be made by the municipal assembly without the concurrent action of the board of estimate and apportionment. This board is a body conservative in its nature and familiar with the extent of the city's debt, with its revenues, with its wants, and with the amount that can be reasonably raised by taxation; and under the charter no considerable debt can be incurred by the municipal assembly without the sanction of this board. When the municipal assembly and the board of estimate and apportionment concur in sanctioning any work which involves the expenditure of large sums of money, the charter further interposes for the public protection the mayor's power of veto. It is the judgment of the commission that the power of creating debt, especially debt payable in the distant future, the power of disposing of franchises, and the levying of taxes and assessments should have this triple safeguard. Any expenditure that can pass these successive ordeals is probably deserving; and, if it cannot pass them, in view of the publicity with which the proposed expenditure will thus necessarily be attended, the presumption is strong that it ought to fail.

Similar protective principles are applied to the water front and waters constituting the harbor of New York. The charter recognizes the harbor as the parent of the city's present greatness and of her commercial supremacy now and in the future. The charter proposed gives to the city, subject to vested private rights, which have been carefully protected, the control of the entire water front, and of lands under water everywhere within the city, so far as necessary to secure and develop the commerce, foreign and domestic, of the city, and provides that its rights in and to its wharves, docks and other adjuncts of commerce, and all property held and acquired for that purpose shall be and remain inalienable, and be disposed of only by way of lease for limited periods upon periodical revaluations.

The municipal assembly, through its representatives, is the organ of the people in the various boroughs and in every part of the city. It is made its duty to see that the laws and ordinances of the city are faithfully observed by all departments and officers. To this end the commissioner has given the municipal assembly, by joint resolution, the power to make inquest into, and within the carefully defined limitations of the charter exercise supervision over, all the departments and officers of the city, a most useful and necessary function, operating as a salutary check on secret abuses, mal-administration and oppressive and illegal exercise of authority.

Board of public improvement.

In respect of the large and costly range of public works comprised in the general term "local or public improvements" the charter provides in one respect a different and more appropriate but equally effective check. It creates a board of public improvements, referred to below, which has jurisdiction over the bridges, streets, avenues, the water and sewer systems, and the like, of the city. It is clear that such works ought to be primarily determined by expert authority, so that they may be developed upon a fixed plan and designed and constructed in accordance with the highest attainable scientific skill. The charter therefore provides in general that the initiative in such improvements shall be taken by the board of public improvements, requiring, however, that works of great magnitude and cost shall have also the approval of the board of estimate and apportionment, and of a three-fourths vote of the people's representatives in the municipal assembly, with a veto power in the mayor, and with power in five-sixths of all of the municipal assembly to override the mayor's veto.

These provisions, requiring respectively the sanction of the board of estimate and apportionment and of the board of public improvements and the sanction of the municipal assembly, and subjecting the ordinances of the municipal assembly relating to them to the veto power of the mayor unless overridden by a five-sixths vote, will, in the judgment of the commission, while giving the city the necessary power of development, render it substantially safe from serious abuse.

The essential features of the board of public improvements are (1) a president of the board with power to enforce harmonious action upon all the departments represented in the board that do public work; (2) the responsibility of each department represented in it for the work to be done by the department; (3) the initiative in matters relating to public improvements, which, in general, is lodged therein. The board of public improvements proposed in the charter consists of the president of the board to be appointed by the mayor, of the commissioners of the six departments having charge of the six great branches of public work in the city, also to be appointed by the mayor, and ex-officio of the mayor, the controller, the corporation counsel and the president of the borough. The mayor, the controller and the corporation counsel have been added to the board of public improvements in order to devolve upon

that body not only the functions that are given to the corresponding board in the city of St. Louis, where experience has demonstrated its value and efficiency, but also the functions that have been committed in New York heretofore to the board of street openings. The presence of these great officers of the city, however, upon the board of public improvements can hardly fail to be an advantage to the board when acting upon the important questions that arise in connection with all public work that is carried on upon a large scale.

The other member of the board of public improvements in the proposed charter is the president of each borough. For administrative purposes, the city has been divided into the five sub-divisions into which the territory of the city divides itself by following natural lines, and these are called, in the proposed charter, boroughs. These boroughs are named Manhattan, the Bronx, Brooklyn, Queens and Richmond. To those familiar with the territory the names are sufficiently descriptive. The president of a borough is an officer elected by the people of a borough (1) to take the initiative in connection with all local improvements that are to be paid for by assessment for benefits; and (2) to represent the borough on the board of public improvements. In the latter board the president of the borough has a vote as to all questions affecting his own borough. The board of public improvements thus consists of eleven members. This board is one of the chief constructive provisions of the charter and has been carefully thought out in its constitution and powers. It is large enough to bring togther men of different outlook and different ways of thinking, so as to secure intelligent and thorough discussion. It has in its membership the heads of the departments that must carry on all city work, and can therefore command the advice and the technical information of the experts in all of these departments. The city at large is represented by its two great elective officers, the mayor and the controller, who will bring to the deliberations of the board the general point of view, while every locality is insured a hearing and a voice by the presence on the board of the president of the borough. Finally, the corporation counsel is a member of the board to advise it upon all legal questions that may arise. The commission is sanguine that this feature of the charter will justify itself as thoroughly as the board of estimate and apportionment has justified itself during the past twenty years.

Such protective provisions, in respect of the debt creating and borrowing powers of the city, are neither anomalous nor unnecessary. The cost of public improvements in the municipalities of this country, permanent in their nature and too great to be borne out of current taxation, is generally met by the issue of bonds or other evidences of indebtedness payable in twenty or thirty years, or other long periods of time.

Safeguards against excessive indebtedness.

The temptation to create present debt and to throw the burdens of it on the future is very great, and it is universally recognized that such power must be conferred under necessary limitations, the common limitations in this country being a constitutional restriction on the total aggregate indebtedness that may be created (which is generally much smaller than the 10 per cent. limitation in the constitution of New York), and often the sanction also of a popular vote. Even these have not always proved effectual against the creation of improvident or extravagant indebtedness. In England municipalities must submit to the home office or other central authority in London for examination and sanction every project which requires the like borrowing of money. This check on ill advised improvements works well in that country, although it is a check which is extrinsic to the municipality, and one that is imposed upon the power of the electors and of the municipality itself. On a similar principle, and for the same purposes, we have devised and imposed checks upon the debt creating power of the greater city by requiring the sanction, respectively, of the board of estimate and apportionment and of the board of public improvements, and by subjecting ordinances creating a debt to the mayor's power of veto. The constitutional limitation in this state is too large to be, in itself, an adequate restriction, and the local conditions in the greater city are not such as to make it appropriate, in many instances, at least, to submit to the people of the whole city the question whether a given improvement, for example an additional bridge over the East river, or other like improvement, should be constructed or made. It seems to the commission that the checks and safeguards contained in the charter against the creation of improvident or excessive indebtedness are specially appropriate to the circumstances and conditions of the greater city, giving it freedom of action to initiate all needful permanent and expensive improvements, provided they have the approval of the boards above mentioned and the sanction of the mayor.

Assumption of Indebtedness.

The commission has provided as a necessary result of consolidation for the assumption by the enlarged city of all the valid debts of every locality. This appeared to it to be mandatory by the terms of the law under which it is acting. As the city inherits all of the powers, franchises, rights and property of the municipal and public corporations to be consolidated, it must necessarily assume the just obligations and liabilities. It would be impossible to secure a uniform rate of taxation throughout the territory of greater New York within a generation by any other course. It would be impossible, in any real sense, to unify the city if in the matter of taxation all parts of it were to be treated on a different basis as distinct entities; and it is not to be forgotten that anything that helps any part of the city after consolidation takes place tends to relieve the burden of taxation in every other part.

Careful provision is made in the charter to secure equality of valuations and of taxation throughout the entire city and in its every part.

Police department.

In organizing the police department the commission encountered a subject upon which it was found that unanimity was impossible. Two different systems of police organization were in existence in the cities to be consolidated. In New York there was a police board of four members, and this board was charged with the duties of a board of elections. At the head of the police department in Brooklyn was a single commissioner, the board of elections being a distinct and independent organization consisting of four members.

The police chapter as finally adopted contains these provisions: (1) All applicants for admission to the force must pass a civil service examination, and new members must be selected from those candidates who are graded highest by the civil service commission after such examination. (2) Promotions from the lower to the higher grades must be made on grounds of seniority, of merit and of excellence, as shown by competitive examinations. (3) "No promotion, except in case of a vacancy in the office of chief of police, shall be made, unless the same is recommended by the chief of police in writing, stating his reasons for such recommendation." (4) To prevent a deadlock, "in case of the rejection of any recommendation for promotion the chief of police shall submit another name within three days, and shall continue so to do until such vacancy is filled." (5) The action of the board upon these recommendations is by a majority vote. (6) The chief of police may be retired and thus removed from office by the unanimous vote of four commissioners or by a majority vote approved by the mayor.

It will thus be seen that the police department under the new charter is organized upon principles quite different from anything that has heretofore prevailed either in New York or Brooklyn.

Consolidation of police forces.

The charter provides for the consolidation into a single force of all the police forces of the territory to be consolidated, and also of all the park police and of the police of the New York and Brooklyn bridge. The advantages to be gained by such a consolidation of police forces are apparent. Some objection has been made that the duties of the park police are so different from those of the regular police as to make consolidation of the force in their case unwise. The commission, in this respect, has acted upon the plan that has worked well in connection with the sanitary squad, a body of police assigned to duty under the orders of the health department. That is to say, while the parks will be policed by members of the police force assigned to duty therein, such members, while so assigned, will be subject to the orders of the park commissioners as fully as the park police now. By this arrangement the commission thinks that it has secured in police matters, even as regards the parks, the advantages of both systems.

Salaries in police and fire departments.

Another aspect of the financial problem has presented itself, to the great perplexity of the commission, in connection with the salaries of the uniformed forces of the police and fire departments. It is certainly just that when men are liable to duty, either as policemen or firemen, in any part of the great city, they should receive the same rate of pay. On the other hand, the question whether the pay ought to be immediately unified has seemed to the commission a somewhat different one. In amalgamating into a single force the police forces of the various cities to be consolidated, and also the park police of the various cities and the bridge police, it is clear that amalgamation in anything more than a nominal sense must be a matter of time. The police forces so to be consolidated are likely for a time to continue to serve, for the most part, where they now are, and under conditions that have hitherto prevailed. In the meanwhile, it has seemed to the commission a real hardship to greater New York, before it has realized any of the benefits of consolidation, immediately to fix the salaries of the police and fire forces all over the consolidated territory at the high figures that now prevail in the present city of New York, which are based very largely, it is to be presumed, upon the greater cost of living on Manhattan island. It has seemed to the commission, therefore, that it is, on the whole, just

to all concerned to place the members of the various police and fire forces to be consolidated with the present New York police and fire forces, in a position to secure at once a yearly increase of pay, and entire uniformity of pay within three years. It is proper to point out that the park police of the present city of New York are dealt with by the commission in precisely the same way as the other police forces to be consolidated into the police force of the greater city. In the meanwhile, provision has been made for the initial appointment to the police and fire forces of greater New York, after January 1, 1898, at a salary of $800 instead of $1,000, the minimum rate of pay at the present time in the city of New York.

Protection of local interests.

Manifestly one of the most difficult problems that the commission has had to meet has been to determine to what extent and how the interests of the different localities in the great city could be adequately provided for without exposing the city, on the one hand, to grave financial danger by reason of extravagant demands of suburabn localities, and without depriving these localities, on the other hand, of the advantages reasonably to be expected from consolidation. The commission is of opinion that the president of each borough, sitting as he does in the board of public improvements, will be an important factor in the successful working out of the problem.

The boards of local improvements consist of the president of the borough and of the members of the municipal assembly residing within any given senatorial district, the senatorial district having been chosen as the unit for the consideration of improvements to be paid for by assessment for benefits. These local boards give the neighborhood, as such, a voice by which it can speak in relation to matters of local concern, and especially as to what are technically known as local improvements; that is to say, improvements to be paid for by assessment for benefits.

The procedure in regard to improvements to be paid for by assessment for benefits has been settled after public hearings and full discussion and deliberate consideration. The locality has the opportunity to express its wishes in the matter through its local board, presided over by the presidient of the borough. The judgment of the board of public improvements, on which the city at large, as well as each locality, is represented, is relied upon to protect the public interest and to prevent the credit of the city from being placed at the service of speculators and contractors. In the scheme adopted, local improvements are to be aided by the credit and means of the city, and the city cannot wholly surrender the control thereof. The procedure adopted is simple and involves no delay other than that which is essential for the thorough investigation by the board of public improvements of each proposition.

Care has been taken to protect all maps that have finally been adopted for any part of the city from ill-considered change. The duty of mapping parts of the city that are not yet mapped has been devolved upon the president of the board of public improvements in connection with the commissioner of sewers. This arrangement has been chosen because it was deemed undesirable to build up special machinery in each borough for this purpose. Again, it was held to be essential that the officer originally making the maps should be in a position to command the complete co-operation of the department of sewers, inasmuch as the drainage system adopted is, to a considerable extent, the determining factor as to the lines and grades of streets and highways. On the other hand, the president of the borough, as a member of the board of public improvements, will be associated with this work only less closely than if he had it directly in his own charge. It is possiible that the president of the board of public improvements may improperly disregard the views of the locality; but so it is possible that a headstrong president of a borough might do the same thing. In the meanwhile, such action is not to be anticipated in either case. It is rather to be assumed that, in a board composed as the board of public improvements will be composed, every new section of the city will be mapped sagaciously and in the public interest. The board of public improvements and also the municipal assembly, with the approval of the mayor, are given power to call for the completion of any map by a date to be fixed, so as to put an end to unreasonable delay.

By these provisions the commission thinks it has met successfully and equitably the requirements of the problem to be dealt with. It has been impossible for the commission to accept the proposition that was so strongly urged from one locality, that every borough should elect its own commissioner of public works, who should have control over and be responsible for public work of all kind within the limits of the borough. Whatever may be the advantages of this proposition, it is not consolidation; it is rather disintegration. Such a plan would make the greater city furnish the money to each locality for whatever work it wanted to do, and would leave the locality free handed to do it in its own way. It would deprive all parts of the city of anythink like unity of development, and would, in effect, destroy whatever advantage is to be expected from consolidation in the direction of skilled oversight and control. The commission has been obliged to assume it as a fundamental proposition from which it has departed in no instance that the control of all public work of every kind should proceed from the center and that it should be executed by the agents of the city as distinguished from the agents of the locality.

The scheme in the charter whereby the city aids with its credit and money the making of local improvements by issuing its bonds and raising, in the first instance, the amount needful for such works, and relying for reimbursement upon afterward collecting assessments for benefits, is a provision of extreme liberality on the part of the city toward the localities. Such a power was regarded by some of the members of the commission as liable to lead to excessive indebtedness on the port of the city, and they urged that no such improvements be made unless one-third, or some other proportion, of the cost should be raised in advance by the property interested. The commission decided upon the scheme outlined whereby the enlarged city will extend its aid, but under the safeguards provided in the charter.

In dealing with interests so comprehensive and so important as those that are affected by the proposition to consolidate into a single city the three cities and the other territory that are to become a part of greater New York, it is not surprising that opinion in the commission, as well as outside of it, should have been sharply divided upon some points. Notwithstanding these divisions of opinion, the commission are as one in recommending to the legislature the adoption of the charter as submitted.

Concluding observations.

The commission, as it has studied the problem committed to it for solution, has become more and more sensible of the gravity of it. It appears to the commission inevitable that there should be more or less inconvenience and possibly some confusion for a time, resulting from the substitution of a new government for so many other and different forms of administration throughout the consolidated territory. Village governments, town governments, city governments and county governments are alike called upon to give place to a city government to come into being on a fixed date. There are no officers in existence competent to make a budget for the enlarged city, nor to lay a tax for its benefit, as such, in advance of its constitution. The commission has provided that the different parts of the territory to be consolidated shall raise their tax for 1898 precisely as though consolidation were not to take place; and the charter equips the enlarged city with authority to make good deficiencies and to readjust in 1899 any inequality of contribution that may be incident to the abnormal condition prevailing in 1898 But, while the commission is aware that some confusion may be inevitable in connection with a reorganization of government so far-reaching, it is, nevertheless, prepared to say, without dissent on the part of any member, that it believes consolidation can safely be undertaken under the provisions of the proposed charter and the special acts supplemental thereto.

The commission does not assume that it has been able to anticipate every contingency, nor, with all its care, that it has been able altogether to avoid omissions, repetitions and mistakes; but it does believe, after everything has been said, that the charter contains a system of government for the consolidated city that may safely be put into operation with the assurance that it will quickly adjust itself to the city's needs.

The commission is glad to be able to add that its study of the problem has left it more firmly convinced than ever that the large and permanent interests of all the communities involved will be advanced by uniting them in the city of New York. Consolidation cannot do otherwise than facilitate the spread of population. To the extent that it does this, it will increase the number of citizens who can own their own homes and will multiply still more largely the number of those who can hope to do so. In the long run, the government of the city and the government of the state must both be benefited by such a result.

Manhattan island is to-day the business center of a greater New York of not less than three millions of people. There are those now living who may see it the business center of a population twice as large. In the meanwhile, by uniting into one city the settlements (within the city limits) that line the shores of the sound, the East river and the bay, so far as they are included in the state of New York, the city of New York secures an opportunity to command the development of commercial facilities throughout the length and breadth of its magnificent water front, which probably could not be had in any other way.

The commissioners unite in recommending the greater New York charter to the favorable consideration of the legislature.

(Signed)

BENJAMIN F. TRACY, President.
WILLIAM L. STRONG, Mayor.
FREDERICK W. WURSTER, Mayor.
PATRICK J. GLEASON, Mayor.
JOHN F. DILLON.
WILLIAM C. DE WITT.
THOMAS F. GILROY.
SILAS B. DUTCHER.
SETH LOW.
HARRISON S. MOORE.
STEWART L. WOODFORD.
CAMPBELL W. ADAMS, State Engineer and Surveyor.
THEODORE E. HANCOCK, Attorney General.
GEORGE M. PINNEY, Jr., Secretary.

Dated New York, February 18, 1897.

THE CHARTER

FOR THE

GREATER NEW YORK.

AN ACT

To Unite Into One Municipality, Under the Corporate Name of The City of New York, the Various Communities Lying In and About New York Harbor, Including the City and County of New York, the City of Brooklyn and the County of Kings, the County of Richmond and Part of the County of Queens, and to Provide for the Government Thereof.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER 1.

BOUNDARIES, BOROUGHS, POWERS, RIGHTS AND OBLIGATIONS OF THE CITY.

The city of New York; corporations consolidated; territory; short title of this act.

Section 1. All the municipal and public corporations and parts of municipal and public corporations, including cities, villages, towns and school districts, but not including counties within the following territory, to wit: The county of Kings, the county of Richmond, the city of Long Island City, the towns of Newtown, Flushing and Jamaica, and that part of the town of Hempstead, in the county of Queens, which is westerly of a straight line drawn from the southeasterly point of the town of Flushing, through the middle of the channel between Rockaway beach and Shelter Island, in the county of Queens, to the Atlantic ocean, are hereby annexed to, united and consolidated with the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, to be hereafter called the city of New York, and the boundaries, jurisdictions and powers of the said city of New York herein constituted, are for all purposes of local administration and government, hereby declared to be co-extensive with the territory above described; and the said City of New York is hereby declared to be the successor corporation in law and in fact of all the municipal and public corporations united and consolidated as aforesaid with all their lawful rights and powers and subject to all their lawful obligations without diminution or enlargement except as herein otherwise specially provided; and all of the duties and powers of the several municipal and public corporations united and consolidated as aforesaid into the city of New York are hereby devolved upon the Municipal Assembly of said city of New York so far as the same are applicable to said city and not herein otherwise specially provided, to be exercised in accordance with the provisions of this act.

This act may be cited by the short title of "The Greater New York Charter."

Division into boroughs.

Sec. 2. The city of New York, as constituted by this act, is hereby divided into five boroughs, to be designated respectively: Manhattan, the Bronx, Brooklyn, Queens and Richmond; the boundaries whereof shall be as follows:

First. The borough of Manhattan shall consist of all that portion of the City of New York, as hereby constituted, known as Manhattan Island, Nuttin or Governor's Island, Bedloe's Island, Bucking or Ellis Island, the Oyster Islands, and also Blackwell's Island, Randall's Island and Ward's Island, in the East or Harlem rivers.

Second. The borough of the Bronx shall consist of all that portion of the city of New York as hereby constituted, lying northerly or easterly of the borough of Manhattan, between the Hudson river and the East river or Long Island sound, including the several islands belonging to the municipal corporation heretofore known as the mayor, aldermen and commonalty of the city of New York not included in the borough of Manhattan.

Third. The borough of Brooklyn shall consist of that portion of the city of New York, as hereby constituted, hitherto known as the City of Brooklyn.

Fourth. The borough of Queens shall consist of that portion of Queens county included in the city of New York as hereby constituted.

Fifth. The borough of Richmond shall consist of the territory known as Richmond county.

Name; powers and rights of the corporation; seal.

Sec. 3. The name of the corporation constituted by this act shall be the City of New York. and the same shall, by that name, be a body politic and corporate in fact and in law with power to contract and to be contracted with, to sue and be sued, to have a common seal and to have perpetual succession, with all of the rights, properties, interests, claims, demands, grants, powers, privileges and jurisdictions held by the mayor, aldermen and commonalty of the city of New York, and held by each of the municipal and public corporations or parts thereof other than counties by this act, united and consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York, except so far as modified or repealed by the provisions of this act.

Local government; municipal assembly; liabilities of corporations consolidated.

Sec. 4. For all purposes the local administration and government of the people and property within the territory hereby comprised within the city of New York shall be in and be exercised by the corporation aforesaid, and the municipal assembly as in this act constituted, subject to the conditions and provisions of this act shall exercise all the powers vested in the corporation of the city of New York by this act or otherwise save as in this act is otherwise specially provided. All valid and lawful charges and liabilities now existing against any of the municipal or public corporations or parts thereof which by this act are made part of the corporation of the city of New York, including the county of Kings and the county of Richmond, or which may hereafter arise or accrue against such municipal and public corporations, or parts thereof, including the said counties of Kings and Richmond, which but for this act would be valid and lawful charges or liabilities against the same, shall be deemed and taken to be like charges against or liabilities of the said city of New York, and shall accordingly be defrayed and answered unto by it to the same extent and no further than the said several constituent corporations would have been bound if this act had not been passed. All bonds, stocks, contracts and obligations of the said municipal and public corporations, including the County of Kings and the County of Richmond, and such proportion of the debt of the County of Queens and of the Town of Hempstead as shall be ascertained as hereinafter prescribed, which now exist as legal obligations, shall be deemed like obligations of the City of New York, and all such obligations as are authorized or required to be hereafter issued or entered into, shall be issued or entered into by and in the name of the corporation of the City of New York.

Laws relating to the creation and payment of debts to remain in force; common debt; taxation.

Sec. 5. All laws or parts of laws heretofore passed creating any debt or debts of the municipal and public corporations, united and consolidated as aforesaid, or for the payment of such debts or respecting the same, as well as every such law respecting the debts of the corporation known as the mayor, aldermen and commonalty of the city of New York, shall remain in full force and effect, except that the same shall be carried out by the corporation hereby constituted, to wit: The city of New York, and under such name and in such form and manner as may be suitable to the admin-

istration of said corporation; and all the pledges, taxes, assessments, sinking funds and other revenues and securities provided by law for the payment of the debts of the municipal and public corporations aforesaid shall be in good faith enforced, maintained and carried out by the corporation of the city of New York. All the valid debts of the municipal and public corporations mentioned in the first section of this act, including the county of Kings and the county of Richmond and the proportion of the debt of the county of Queens and of the town of Hempstead aforesaid, and the valid debts of the towns, incorporated villages and school districts united and consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York into the city of New York, as well as the debts of the latter corporation, shall be the common debt of the city of New York as hereby constituted. So far as resort to taxation is authorized or necessary to pay such debts, such taxation shall extend equally throughout the territory of the corporation herein constituted, except that all assessments for benefits heretofore laid or provided to be laid for the payment of any portion of such debts or to reimburse any of the said municipal and public corporations which created such debt in respect thereof, shall be preserved and enforced, it being the intent hereof that the obligations and liability of the city of New York as the successor of municipalities and public corporations consolidated into it shall be the same as and not otherwise or greater than the respective obligations and liabilities of the several constituent corporations, and that the city of New York shall succeed to all of their rights as well as to their obligations and liabilities in respect thereof, except as herein otherwise specially provided.

Effect where only a part of a corporation is annexed.

Sec. 6. Where part only of the territory of a municipal or public corporation is embraced by this act within the limits of the city of New York, as herein constituted, the respective rights, duties and liabilities of the said city and of the municipal or public corporations part of whose territory is so annexed to the said city, shall be as in this act provided. If any case shall arise for which this act does not make provision, or full and adequate provision arising out of such annexation, or out of the consolidation herein provided for, the municipal assembly may by ordinance make provision for such case, or for its equitable determination, so far as concerns the city of New York.

Same subject. Creation of debt.

Sec. 7. No municipal or public corporation, part of whose territory is annexed to the city of New York, shall hereafter create any debt which shall bind property within the city of New York, nor shall such municipal or public corporation levy any tax or assessment upon property within the city of New York, as herein constituted.

Transfer of property; counties not to become indebted.

Sec. 8. In consideration of the foregoing provisions whereby the city of New York, as hereby constituted, assumes as aforesaid the valid debts, obligations and liabilities of the municipal and public corporations including the counties, towns, incorporated villages and school districts as aforesaid, and to carry out the scheme and purpose of this act, all of the public buildings, institutions, public parks, water works and property of every character and description, whether of a public or private nature, heretofore owned and controlled by any of the said municipal and public corporations or parts thereof, hereby consolidated into the city of New York, including any and all such property owned by the county of New York, the county of Kings and the county of Richmond wherever situated, and by the county of Queens situated in that portion thereof which is included within the limits of the city of New York, as constituted by this act, and all the right, title and interest of the said municipal and public corporations and counties as aforesaid, or any of them, in and to such property, are hereby vested in the city of New York and divested out of the said corporations and counties, and the power of said municipal and public corporations and of the said counties of New York, Kings and Richmond to become indebted, shall cease upon the consummation and taking effect of the consolidation herein provided for. There is excepted from the provisions of this section the court house and county buildings in the county of Queens situated within the limits of the city of New York as hereby constituted.

Former funds; payable to the city of New York.

Sec. 9. All funds and moneys which, on the first day of January, 1898, shall be held by or be payable to the receiver of taxes or to the county treasurer of the county of Richmond, or to any officer of any of the municipal and public corporations, or parts of municipal and public corporations, hereby consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, as well as all funds and moneys then held by or payable to any officer of said last named corporation, shall be deemed to be held by and be payable to the corporation of the city of New York, constituted by this act, solely as the funds and moneys of said corporation, and upon the day aforesaid shall be delivered to the officer of said corporation entitled by this act to hold and control the same.

Expenses of the city for the year 1898.

Sec. 10. In the year 1897 it shall be the duty of the proper authorities of the various municipal and public corporations consolidated by this act into the city of New York to prepare a budget for the year 1898, as required by existing law, and to levy taxes for the year 1898 in 1897, as required by existing law, as though such municipal and public corporations were not to be consolidated into the city of New York; and in so far as such taxes shall remain uncollected on the first day of January, 1898, they shall become valid liens due to the corporation, by this act constituted, and shall be collected by it through the appropriate officers of the city of New York as hereby constituted, pursuant in all respects to the laws under which said taxes were levied and were to be collected. On and after January first, 1898, the funds received by the chamberlain of the city of New York, under this act, and the proceeds of revenue bonds issued in anticipation of the taxes for 1898 in the city of New York, as constituted prior to the passage of this act, and the proceeds of the tax levy therein of 1898, may be used for the expenses of the city of New York, as constituted by this act, in such manner as the board of estimate and apportionment for that year may determine; and it shall be the duty of the board of estimate and apportionment to apportion the said funds to the various city departments as created by this act, so that such funds shall be used, as nearly as may be, for the objects for which they were raised. The board of estimate and apportionment, during the year 1898, should have power to direct the issue of revenue bonds of the city of New York, to be redeemed out of the tax to be paid in 1899, for such purposes and in such amounts as may be necessary to provide for the efficient conduct of the city in all its departments, during 1898, provided that the sums so raised in 1898 shall be subject to be raised by taxation upon the various boroughs on the basis elsewhere provided in this act.

Expense of public schools for the year 1898.

Sec. 11. The board of estimate and apportionment shall, out of the residue of the various funds raised for the support of the public schools of the different parts of the city during the year 1898, constitute from and after July first, 1898, the special school fund and the general school fund for the year 1898, so that the schools of the city may begin in the autumn of 1898 to be conducted upon the basis of this division of funds, and in general, upon the system hereinafter prescribed in this act. Up to July first, 1898, the school money shall be spent as raised, for all school purposes, by the various school boards respectively. It shall be the duty of the board of education, as constituted under this act, to make all appointments therein provided for, and to adopt the necessary by-laws at such time and in such manner, that the new system for the administration of the public schools of the city, as provided by this act, shall go into full effect on July first, 1898.

CHAPTER II.

LEGISLATIVE DEPARTMENT.

Legislative power; where vested.

Sec. 17. The legislative power of the City of New York shall be vested in two houses to be known, respectively, as the council and board of aldermen, to be together styled "The Municipal Assembly of the City of New York."

Council, number of; president; quorum; salaries.

Sec. 18. The council shall consist of twenty-nine members, one of whom shall be its president. The president shall be chosen on a general ticket by the qualified voters of the city, at the same time and for the same term as herein prescribed for the mayor. He shall be known as the president of the council, and shall, except as herein provided, possess all the rights, privileges and powers and perform the duties now conferred or imposed by law upon the president of the board of aldermen, of the mayor, aldermen and commonalty of the city of New York. A majority of all the members elected to the council shall constitute a quorum. The salary of the president of the council shall be five thousand dollars a year. The salary of the other members of the council shall be one thousand five hundred dollars a year.

Council, how chosen; council districts.

Sec. 19. The remaining twenty-eight members of the council shall be chosen at the same election in the manner following:

The city of New York as constituted by this act is hereby divided into ten council districts bounded and described as follows, to wit:

First—All that part of the city of New York as heretofore constituted comprising the present First, Second, Fourth, Sixth, Eighth, Tenth, Twelfth, Fourteenth and Sixteenth assembly districts.

Second—All that part of the city of New York as heretofore constituted comprising the present Third, Fifth, Seventh, Ninth, Elev-

enth, Thirteenth, Fifteenth, Seventeenth, Twenty-fifth and Twenty-seventh Assembly districts.

Third—All that part of the city of New York as heretofore constituted comprising the present Eighteenth, Twentieth, Twenty-second, Twenty-fourth, Twenty-sixth, Twenty-eighth, Thirtieth, Thirty-second and Thirty-third assembly districts.

Fourth—All that part of the city of New York as heretofore constituted comprising the present Nineteenth, Twenty-first, Twenty-third, Twenty-ninth and Thirty-first Assembly districts, and that part of the Thirty-fourth Assembly district lying south of the Harlem river.

Fifth—All that part of the city of New York as heretofore constituted comprising that part of the present Thirty-fourth Assembly district lying north and east of the Harlem river and the whole of the Thirty-fifth Assembly district, together with the district known as the annexed district of said city, being all that part of the city of New York lying north and east of the Harlem river.

Sixth—All that part of the former city of Brooklyn comprising the present Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth, Twenty-first, Twenty-fifth, Twenty-seventh and Twenty-eighth wards of said city.

Seventh—All that part of the former city of Brooklyn comprising the present Seventh, Ninth, Twentieth, Twenty-second, Twenty-third, Twenty-fourth, Twenty-sixth, Twenty-ninth and Thirty-second wards of said city.

Eighth—All that part of the former city of Brooklyn comprising the present First, Second, Third, Fourth, Fifth, Sixth, Eighth, Tenth, Eleventh, Twelfth, Thirtieth and Thirty-first wards of said city.

Ninth—That part of Queens county included in the city of New York as constituted by this act.

Tenth—The county of Richmond.

From each of the first eight of the said council districts there shall be elected three members of the council.

From that part of the County of Queens included within the city of New York as constituted by this act, comprising the Ninth of the said council districts, there shall be elected two members of the council; one of said members shall be elected from those parts of said county heretofore known as Long Island City and the town of Newtown; and the other of said members shall be elected from those parts of said county heretofore known as the towns of Jamaica and Flushing and that part of the town of Hempstead included within the City of New York as hereby constituted.

From the County of Richmond, comprising the Tenth of the said council districts, there shall be elected two members of the council.

Term of office of members of the council.

Sec. 20. The term of office of each member of the council shall commence on the first Monday of January after his election, and shall continue for four years thereafter, and until his successor shall be elected and has qualified. The president and members of the council shall be elected at the general election in the year 1897, and every four years thereafter.

Mayor, an ex-officio member of the council.

Sec. 21. Every ex-mayor of the City of New York as constituted by this act shall, so long as he remains a resident of said city, be entitled to a seat in the council and to participate in its discussions, but he shall not be entitled to a vote.

Time of meeting of council.

Sec. 22. The first meeting of said council in each year shall be held on the first Monday of January, at noon.

When president of council to act as mayor; powers; temporary chairman of council.

Sec. 23. Whenever there shall be a vacancy in the office of mayor, or whenever by reason of sickness or absence from the city the mayor shall be prevented from attending to the duties of his office, the president of the council shall act as mayor, and possess all the rights and powers of mayor during such disability or absence. In case of a vacancy he shall so act until noon of the first Monday of January succeeding the election at which the mayor's successor shall be chosen; and at the next general election, at which municipal officers shall be elected, which shall take place more than thirty days after the occurrence of a vacancy in the office of mayor, a successor shall be chosen, who shall hold for the unexpired term. It shall not be lawful for the president of the council, when acting as mayor in consequence of the sickness or absence from the city of the mayor, to exercise any power of appointment to or removal from office, unless such sickness or absence of the mayor shall have continued ten days; or to sign, approve or disapprove any ordinance or resolution, unless such sickness or absence shall have continued at least nine days. The council shall elect a vice-chairman to preside over the meetings, who shall possess the powers and perform the duties of the president of the council, when said president is sick, absent or under suspension, or while the president of the council is acting as mayor, or when a vacancy occurs in said office, and who shall, during such time, be a member of every board of which the president of said council is a member by virtue of his office.

Board of aldermen, how constituted; term of office; vacancies, how filled; salary.

Sec. 24. The board of aldermen shall be elected at the general election in the year 1897, and every two years thereafter, and shall consist of one member elected from each of the assembly districts within the territory of the city of New York, as constituted by this act, or as such assembly districts may hereafter be changed by law; provided, however, that in the county of Queens, until otherwise provided by law, one member of said board of aldermen shall be elected from those parts of said county heretofore known as Long Island City and the town of Newtown; and one member shall be elected from those parts of said county heretofore known as the towns of Jamaica and Flushing and that part of the town of Hempstead included within the city of New York, as hereby constituted; and provided, further, that one member of the board of aldermen shall be elected from those parts of the First and Second assembly districts of Westchester county, included in the borough of the Bronx. The term of office of each alderman shall commence on the first Monday of January, after his election, and shall continue for two years thereafter, and until his successor shall be elected and has qualified. Any vacancy which may occur in the council or the board of aldermen shall be filled by election, by either of said bodies respectively, by a majority of all the members elected thereto; and the person so elected to fill any such vacancy shall serve for the unexpired portion of the terms. The salary of members of the board of aldermen shall be one thousand dollars a year.

Id.; quorum.

Sec. 25. A majority of all the members elected to the board of aldermen shall constitute a quorum. Each head of an administrative department of the city shall be entitled to a seat in said board and shall whenever practicable attend the meetings of the board, and shall have the right to participate in its discussions, but shall not have the right to vote. If an administrative department is composed of more than one member, the president or presiding officer of such department shall be entitled to such seat.

Id.; how president elected and removed.

Sec. 26. The board of aldermen shall, at its first meeting which shall be at noon on the first Monday of January, after each aldermanic election, by the affirmative vote of a majority of those present and constituting a quorum, choose a president from its own members, by a call of the names of the members of the board, upon which call each member shall announce his choice, and when once chosen, such president can be removed before the expiration of his term as alderman, when his term as president shall expire, only by a vote taken by a call of ayes and noes, of four-fifths of all the members elected to the board.

Council and board of aldermen; sergeant-at-arms; rules, journal, sittings; expulsion of members.

Sec. 27. The council and the board of aldermen may each elect a sergeant-at-arms and such assistants as are needful to the orderly conduct of their meetings, provided, however, that no expenditures for salaries of such sergeant-at-arms and such assistants shall exceed the amount appropriated therefor in the annual budget. Each of said bodies shall determine the rules of its own proceedings; shall each be the judge of the election returns and qualifications of its own members; subject, however, to review by certiorari of any court of competent jurisdiction; shall each keep a journal of its proceedings; shall each sit with open doors; shall each have authority to compel the attendance of absent members and to punish its members for disorderly behavior; and to expel any member with the concurrence of two-thirds of all the members elected to such body. Every member so expelled shall thereby forfeit all his rights and powers, subject, however, to judicial review on certiorari.

City clerk; appointment, term, duties; papers certified by him to be evidence.

Sec. 28. The council shall, at the first meeting, appoint a clerk, who shall perform such duties as may be prescribed for him. The clerk so appointed shall also be the city clerk, and hold his office for six years, and until his successor shall be appointed and have qualified unless removed for cause. The city clerk shall have charge of all the papers and documents of the city, except such as are by law committed to the keeping of the several departments or of other officers, and shall keep the record of the proceedings of the municipal assembly. He shall engross all the ordinances of the municipal assembly in a book to be provided for that purpose, with proper indices, which book shall be deemed a public record of such ordinances, and each ordinance shall be attested by said clerk. Copies of all papers duly filed in his office, and transcripts thereof, and of the records of proceedings of the municipal assembly, and copies of the laws and ordi-

nances of said city, certified by him under the corporate seal, shall be evidence in all courts and places of the matters therein contained. Said clerk shall appoint a clerk for the board of aldermen, who, apart from his service during the meetings of said board of aldermen, shall be in all things subject to his direction and control. Said clerk may be removed on charges by a two-thirds vote of all the members of the council, subject, however, to judicial review on certiorari.

City clerk; proceedings of municipal assembly.

Sec. 29. Immediately after the adjournment of each meeting of the municipal assembly, it shall be the duty of the clerk to prepare a brief abstract, omitting all technical and formal details, of all resolutions and ordinances introduced or passed, and of all recommendations of committees, and of all final proceedings, as well as full copies of all messages from the mayor and all reports of departments or officers. He shall at once transmit the same to the person appointed to supervise the publication of the City Record to be published therein.

Certain ordinances and resolutions; how passed and approved; ayes and noes published.

Sec. 30. No ordinance or resolution providing for or contemplating hte alienation or disposition of any property of the city, the granting of a franchise, terminating the lease of any property or franchise belonging to the city, or the making of any specific improvement, or the appropriation or expenditure of public moneys, or authorizing the incurring of any expense, or the taxing or assessing of property in the city, shall pass the council or board of aldermen at the same session at which it is first offered, unless by unanimous consent; and the same shall not be finally passed or adopted by the municipal assembly until at least five days after such abstract of its provisions shall have been published, as provided in section 29. No such ordinance or resolution shall be approved by the mayor until three days after such abstract shall have been so published after its passage; but if an abstract of any resolution or ordinance shall have been once published after its introduction, it shall not thereafter be necessary to publish the same again, but only to refer to the date and page of the former in the City Record, and to state the amendments, if any, made thereto. In all cases the ayes and noes upon the final passage of such resolution or ordinance shall be taken, recorded and published.

Records open for inspection; other duties of clerks; sickness.

Sec. 31. It shall be the duty of the city clerk to keep open for inspection, at all reasonable times, the records and minutes of the proceedings of the municipal assembly. He shall keep the seal of the city, and his signature shall be necessary to all leases by the city of its property, and to all grants and other documents, as under existing laws. In the absence of said clerk by sickness or otherwise, his first deputy shall be vested with and possessed of all the rights and powers, and be charged with all the duties, by this section or by law or ordinance imposed upon said clerk.

Id.; records and papers delivered to and kept by the clerk; clerks in boroughs.

Sec. 32. All the muniments, records, patents, deeds, minutes, writings and papers belonging to the mayor, aldermen and commonalty of the city of New York, now in the custody of the clerk of the board of aldermen thereof, shall be delivered to and kept by the city clerk. The city clerk shall be the custodian of all like muniments, records, patents, deeds, minutes, writings and other papers belonging to any of the municipal and public corporations by this act united and consolidated into the city of New York, and shall have power to appoint a clerk in each of the boroughs constituted by this act, who shall have charge of the same, subject to the direction and control of said city clerk and of the municipal assembly.

Id.; salary and deputies.

Sec. 33. The salary of the city clerk shall be $7,000 a year, and he may appoint such deputies or clerks as are necessary to the discharge of his duties, provided that the aggregate salaries of such deputies and clerks, including the salary of the city clerk, shall not exceed in any one year the sum appropriated therefor in the annual budget.

Licenses to auctioneers.

Sec. 34. The city clerk shall have authority to grant licenses to any person engaged in and carrying on the business and occupation of auctioneer, or desiring to be so engaged, on such person filing a bond approved by him with two good sureties in the penal sum of $2,000. The president of the council, on complaint of any person having been defrauded by any auctioneer, or by the clerk, agent or assignee of such auctioneer, doing business in said city, is authorized and directed to take testimony under oath relating thereto; and if the charge shall, in his opinion, be sustained, he shall revoke the license granted to him and direct the bonds to be forfeited.

Municipal assembly; journal; ayes and noes.

Sec. 35. Each house shall keep a journal of its proceedings, and the ayes and noes of the members on any question shall, at the desire of any two members, be taken and entered therein. The ayes and noes shall be called and recorded on the final passage of any ordinance.

Id.; no member eligible to any city office.

Sec. 36. No member of the municipal assembly shall, during the term for which he is elected, be eligible or be appointed to any other office under the city, nor shall any member of said assembly, while such, be a contractor with or an employe of the city, or of either branch of the said assembly in any capacity whatever.

Id.; meetings.

Sec. 37. The stated and occasional meetings of the municipal assembly and its proceedings and business shall be regulated by its own resolutions and rules, provided, however, that at least one stated meeting shall be held each month, except in the discretion of the municipal assembly in August and September. The mayor may at any time call a special meeting of the municipal assembly. He shall call such meeting when a requisition for that purpose, signed by nine members of the board of aldermen and three members of the council, has been presented to him. Three days before any special meeting of the municipal assembly is held, notice of the time of the intended meeting and of the business proposed to be transacted, signed by the mayor, shall be published in the city record, and the city clerk shall cause a copy of such notice to be left or sent by post at the usual place of abode or of business of each member of the municipal assembly, but want of service of a notice upon any member shall not affect the validity of a meeting. No business shall be transacted at a special meeting other than that specified in the notice relating thereto.

Id.; style of ordinances.

Sec. 38. The style of ordinances shall be: "Be it ordained by the municipal assembly of the City of New York, as follows":

Id; vote required to pass ordinances and resolutions.

Sec. 39. Every legislative act of the municipal assembly shall be by ordinance or resolution. No ordinance or resolution shall be passed except by a vote of a majority of all the members elected to each house. In case any ordinance or resolution involves the expenditure of money, the creation of a debt, or the grant of a franchise, the votes of three-fourths of all the members elected to each house shall be necessary to its passage. No money shall be expended for any celebration, procession, funeral ceremony, reception or entertainment of any kind, or on any occasion, unless by the votes of four-fifths of all the members elected to each house.

No additional allowance beyond the legal claim which shall exist under any contract with the corporation or with any department or officer thereof or for any services on its account or in its employment, shall ever be passed by the municipal assembly, except by the unanimous vote of both houses thereof, and in all cases the provisions of any such contract shall determine the amount of any claim thereunder or in connection therewith, against the said corporation, or the value of any such services.

Mayor's veto.

Sec. 40. Every ordinance or resolution shall, before it takes effect, be presented, duly certified, to the mayor for his approval. The mayor shall return such ordinance or resolution to the house in which it originated, within ten days after receiving it, or at the next meeting of the house after the expiration of said ten days, unless such ordinance or resolution be one of those mentioned in section 30 of this act, in which case the mayor shall return said ordinance or resolution to the house in which it originated within ten days after the abstract of its provisions or a reference thereto shall have been published in the City Record as provided in said section 30, or at the next meeting of the house after the expiration of said ten days. It he approve it he shall sign it. If he disapprove it, he shall specify his objection thereto in writing. If he do not return it with such disapproval within the time above specified it shall take effect as if he had approved it. In case of disapproval the objections of the mayor shall be entered at large on the journal of the house, and the house shall, after ten days and within fifteen days after such ordinance or resolution shall have been returned to it, proceed to reconsider and vote upon the same. If the same shall, on reconsideration, be again passed by the votes of at least two-thirds of all the members elected to each house, it shall take effect; provided that in case the ordinance or resolution involves the expenditure of money, the creation of a debt, the laying of an assessment, or the grant of a franchise it shall require a vote of five-sixths of all the members of each house to pass it over the mayor's veto. If the ordinance or resolution shall fail to receive upon the first vote upon such reconsideration such number of affirmative votes in either house, it shall be deemed finally lost. In all cases the vote shall be taken by ayes and noes, and the names of the persons voting for or against its passage on such reconsideration shall be entered in the journal of the house. In case

an ordinance or resolution shall embrace more than one distinct subject the mayor may approve the provisions relating to one or more subjects and disapprove the others. In such case those he shall approve shall become effective, and those which he shall not approve shall be reconsidered by the house and shall only become effective if again passed, as above provided.

Ordinances to remain in force.

Sec. 41. The ordinances now in force respectively in the City of New York, the City of Brooklyn, Long Island City, and the other municipal and public corporations and parts thereof hereby consolidated with the City of New York, are, so far as the same are not inconsistent with this act, hereby continued in full force and effect within the former limits of said respective cities and municipal and public corporations, or parts thereof, subject to modification, amendment or repeal by the municipal assembly of the City of New York. Such ordinances may be enforced by and in the name of "The City of New York."

Power to acquire additional water works.

Sec. 42. The municipal assembly is authorized, in accordance with the provisions of this act, to construct, establish, and maintain, or to acquire by purchase or condemnation and maintain in all parts of the city additional water works to supply the city or any part thereof and its inhabitants with water and to provide for the distribution and sale to the inhabitants of the city of such water and fix the terms thereof, and acquire and hold property, real and personal, within and beyond the limits of the city for said purposes. The municipal assembly may pass appropriate ordinances, not inconsistent with law, with this act or with any vested rights of existing companies or corporations to enforce the provisions of this section and to carry out its purposes.

Id., to restrict height of buildings.

Sec. 43. The municipal assembly is authorized by ordinance to regulate and restrict the height of buildings to be hereafter erected in the city. When any ordinance on that subject is introduced, the municipal assembly shall provide for public hearings in reference thereto before it or before appropriate committees; and no ordinance restricting the height of buildings shall be passed unless it is approved beforehand by the board of public improvements by a resolution or vote of a majority of all the members of such board entered on its minutes or record, and unless it shall be passed by a majority of all the members elected to each house of the municipal assembly, the vote being taken by ayes and noes.

Power to appoint special committees.

Sec. 44. The municipal assembly shall have power and it shall be its duty to see to the faithful execution of the laws and ordinances of the city; and the municipal assembly may, by joint resolution, appoint from time to time a special committee to inquire whether the laws and ordinances of the city relating to any subject or to any department of the city government are being faithfully observed and the duties of the officers of such department or of any officer of the city are being faithfully discharged, also to examine and report whether there are any unnecessary, inefficient or unfit employes, any excessive salaries or compensations paid and generally in respect of any and all matters which will conduce to the orderly and economical administration of the affairs of the city government or any department thereof. Such committee shall have access to the books and records of the city or of any department or officer thereof.

Franchises for street railways; ferries.

Sec. 45. The municipal assembly is authorized to grant from time to time to any corporation thereunto duly authorized, the franchise or right to construct and operate railways in, upon, over, under and along streets, avenues, parkways or highways of the city, but no such grant shall be made except upon the limitations and conditions of this act elsewhere provided in respect of the grant by the municipal assembly of franchises and rights in the streets, avenues, parkways and highways of the city. And further, to the end that cheap, easy and convenient intercourse may be had between all parts of the city, the City of New York, as hereby constituted, shall have full and exclusive power to establish, and full power to enjoy by leasing the same or otherwise, and to maintain and regulate ferries over all streams and waterways within or adjoining the limits of the said city. The municipal assembly may pass appropriate ordinances not inconsistent with law or with this act, or with the vested rights of existing companies or corporations to enforce the provisions of this section and to carry out its purpose. Nothing in this act contained is intended to repeal or affect the provisions of the rapid transit acts applicable to the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or any municipality herein united therewith or territory embraced therein, or to repeal or affect the existing general laws of the state in respect to street surface railroads.

Municipal assembly; powers and duties of former boards.

Sec. 46. Except as otherwise provided in this act, all the powers and duties conferred or charged upon the common council of the mayor, aldermen and commonalty of the city of New York, or the board of aldermen thereof, or upon the common council of the City of Brooklyn or of Long Island City, or upon any board, body or officer of any of the municipal and public corporations or parts thereof, hereby consolidated with the City of New York, as heretofore known and bounded, shall be exercised and performed by the municipal assembly of the City of New York, as hereby constituted, subject, nevertheless, to the power of approval or disapproval by the mayor of said city, as provided in this act.

Id.; police, health, park, fire and building regulations.

Sec. 47. The municipal assembly shall have power to make, establish, alter, modify, amend and repeal all ordinances, rules, police, health, park, fire and building regulations, not contrary to the laws of the state, or the United States, as they may deem necessary to carry into effect the powers conferred upon the city of New York by this act, or by any other law of the state, or by grant, and such as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, peace and prosperity of said city, and its inhabitants, except so far as the legislative power respecting the health, police, park, fire and building departments shall be conferred upon said departments respectively by the provisions of this act, and except that any modification of the existing rules, regulations and ordinances affecting any of the departments and all ordinances to be passed to govern the board of public improvements or any of the departments thereof, must originate with the department concerned, or with said board, and must be adopted or rejected by the municipal assembly without amendment.

Id.; further powers; bonds for specified public improvements.

Sec. 48. The municipal assembly shall have power to provide by ordinance for the acquisition, construction, or establishment of markets; for the acquisition and construction of parks, parkways, boulevards and driveways; for the building of bridges and the establishment of ferries over, and of tunnels under any stream or waterway within or adjoining the limits of the city; for the building of docks, wharves or piers, and for acquiring land by purchase or condemnation for said purposes; for acquiring or constructing public buildings, including school houses and sites therefor for the use of the city; for the repaving of streets; and for any of the foregoing purposes, may create loans and authorize the issue of bonds or other evidences of indebtedness to pay for the same, payable at such times and in such manner, and at such rates of interest as it may by ordinance prescribe; but no bonds or other evidences of indebtedness shall be issued under the authority of this section, unless the proposition for creating such debt shall first be approved by a resolution or vote of a majority of all of the members of the board of estimate and apportionment, entered on the minutes or record of such board; and provided further, that in the case of the issue of bonds or other evidences of indebtedness for the repaving of streets, the vote of the board of estimate and apportionment must be unanimous.

Id.; make ordinances and regulations for certain purposes.

Sec. 49. Subject to the provisions of this act, the municipal assembly shall have power within said city to make, establish, publish and modify, amend or repeal ordinances, rules, regulations and bylaws not inconsistent with this act, or with the constitution or the laws of the United States or of this state, for the following purposes:

1. In relation to the inspection and sealing of weights and measures, and the keeping in use of proper weights and measures by vendors; and may by ordinance regulate the duties and fees or salary of the inspectors of weights and measures and of the sealers of weights and measures, and may impose such penalties for using weights and measures and scale beams which shall not have been inspected and sealed in conformity to the ordinances, and to provide for the appointment of such inspectors and sealers by the mayor as to them shall seem proper. They may assign a particular district of the said city for each of said inspectors and likewise for each of the sealers of weights and measures, and may confine them in the performance of their duties to such districts respectively.

2. In relation to the inspection, weighing and measuring of fire wood, coal, hay and straw and the cartage of the same.

3. To regulate the use of streets, highways, roads, public places and sidewalks by foot passengers, animals, vehicles, cars, motors and locomotives, and to prevent encroachments upon and obstructions to the same, and to authorize and require their removal by the proper department; but they shall have no power to authorize the placing or continuing of any encroachment or obstruction upon any street or sidewalk, except the temporary occupation thereof, during the erection or repairing of a building on

a lot opposite the same, nor shall they permit the erection of booths and stands within stoop lines, except for the sale of newspapers, periodicals, fruits and soda water, and with the consent in such cases of the owner of the premises.

4. To regulate by general ordinance, the opening of street surfaces for purposes authorized by law, subject to such restrictions as have already been prescribed by statute.

5. To regulate the numbering of the houses and lots in the streets and avenues and the naming of the streets, avenues and public places, but it shall not be lawful to number or renumber any houses or to change the name of any street, avenue or public place, save between the first day of December of any year and the first day of May next ensuing.

6. To regulate and prevent the throwing or depositing of ashes, offal, dirt or garbage in the streets and subject to the other provisions of this act to regulate the cleaning of the streets, avenues, sidewalks and gutters and removing of ice and snow from them.

7. To regulate the use of the streets and sidewalks, for signs, sign posts, awnings, awning posts, horse troughs, urinals, telegraph posts and other purposes.

8. To provide for and regulate street pavements, cross walks, curb stones, gutter stones, sidewalks and to provide for regulating, grading, flagging, curbing, guttering, and subject to the provisions of this act, lighting streets, roads, places and avenues.

9. To regulate public cries, advertising noises, steam whistles and ringing bells in the streets.

10. In relation to street vagrants, beggars and mendicants.

11. In relation to the use of guns, pistols, fire arms, fire crackers, fire works and detonating works of all description within the city.

12. In relation to intoxication, fighting and quarreling in the streets.

13. In relation of places of public amusement.

14. In relation to exhibiting banners, placards, or flags in or across the streets, or from houses or other buildings.

15. In relation to the erection, maintenance and repair of public fountains for the use of man and animals, at convenient points along the streets and avenues and public places.

16. In relation to the exhibition of advertisements or hand bills along the streets, avenues or public places.

17. In relation to the construction, repair and use of vaults, cisterns, areas, hydrants, sewers and pumps.

18. In relation to partition fences and walls.

19. In relation to the construction, repair, care and use of markets.

20. In relation to the licensing and business of public cartmen, truckmen, hackmen, cabmen, expressmen, car drivers and boatmen, pawnbrokers, junk dealers, keepers of intelligence offices, dealers in secondhand articles, hawkers, peddlers, venders and the keeping of dogs, menageries, circuses, common shows and scalpers in coal freights, bone boiling, fat rendering and other noxious businesses, and to fixing the license, if any, therefor. All licenses created therefor shall be according to an established form and shall be regularly numbered and duly registered, as shall be prescribed by the municipal assembly, provided, however, that all laws heretofore passed in respect to the avocations above named within the city, shall remain in full force and effect, to the exclusion of any power granted by this provision so far as their terms shall require.

21. The municipal assembly shall also fix the annual license fee, not exceeding the sum of twenty dollars, for each street or horse car daily operated or used in that portion of the city heretofore known as the City of Brooklyn. Every railroad company operating or using such cars, shall, on or before the first day of June in each year, certify to the city clerk the average number of cars daily operated and used by said company, which certificate shall be verified by the oath of one of the managing officers of said company, and every such railroad company shall, on or before the first day of July in each year, pay to the chamberlain of the city of New York, the license fees so established for the average number of cars so operated and used by said company. The said license fees shall be taken in full satisfaction for the use of the streets or avenues, but the same shall not release said company from any obligations required by law to keep such streets and avenues, or any part thereof, in repair, which said obligations and the contracts, laws or ordinances, creating and enforcing the same, are hereby continued in full force and operation. But nothing in this subdivision contained shall be construed to release any railroad company in the City of New York, as constituted by this act, from any duty or obligation existing at the time this act takes effect by virtue of any law, ordinance or contract.

22. To the more effectual suppression of vice or immorality, and the preserving of peace and good order in said city.

23. For the licensing and otherwise regulating the use of dirt carts.

24. For the preservation and protection of all or any of the works connected with the supplying of the city of New York with pure and wholesome water.

25. To regulate the fees for searches and certificates, to be charged by the collector of assessments and arrears.

26. To make such regulations in reference to the running of stages, omnibuses, trucks and cars as may be necessary for the convenient use and the accommodation of the streets, piers, wharves and stations, and whenever in shipping or receiving goods, wares, or other merchandise at any of the shipping lines, by steamboat, canalboat, sailing vessels, railroad or from or to any warehouse during the specified hours for receipt or delivery of freight, a truckman is unreasonably detained over thirty minutes by reason of said steamboat, canalboat, sailing vessel, railroad company or warehouse not employing sufficient help for prompt receipt or delivery of freight, or by reason of the failure to use all of the facilities at their disposal for the prompt receipt and delivery of freight, to regulate the amount said truckman shall be entitled to be paid, which amount shall not be less than the sum of one dollar per hour for every hour which he is so unreasonably detained, which amount shall be paid to said truckman by the company, corporation or person causing such delay.

27. To regulate the rates of fare to be taken by owners or drivers of hackney coaches or carriages; such owners shall pay an annual license fee to be determined by the municipal assembly.

28. The municipal assembly may authorize the establishment, operation or extension of any right for the running of omnibuses or stages, and may terminate or alter such authority conformably to the statutes applicable thereto.

29. To regulate swimming and bathing in the waters of or bounding the city, and to establish and maintain in the city such public baths and public comfort stations as they may deem necessary, and to establish suitable rules and regulations for the management of the same.

30. To prohibit and suppress all gaming houses and places for gaming in the said city.

31. To enlarge or extend from time to time the limits of the fire districts of the city, and to establish additional fire districts and from time to time to extend the same.

Id.; foregoing enumeration of powers not restrictive; general power.

Sec. 50. The foregoing or other enumeration of powers in this act shall not be held to limit the legislative power of the municipal assembly which, in addition thereto, may exercise all of the powers vested in the city of eNw York by this act or otherwise by proper ordinances, rules, regulations and bylaws not inconsistent with the provisions of this act or with the constitution or laws of the United States or of this state; and subject to such limitations, may from time to time ordain and pass all such ordinaces, rules, regulations and bylaws as to the said municipal assembly may seem meet for the good rule and government of the city, and to carry out the purposes and provisions of this act or of other laws relating to the said city, and may provide for the enforcement of the same by such fines, penalties, forfeitures and imprisonment as may by ordinance or by law be prescribed.

Id.; licenses to second-hand dealers; penalty for violating ordinance.

Sec. 51. Every dealer in second-hand articles and scalper in coal freights shall pay for a license a sum to be determined by the municipal assembly, not exceeding five hundred dollars. Dealers in second hand articles and scalpers in coal freights may be required to give security to the city with one or more sufficient surety or sureties, in a sum not exceeding ten thousand dollars conditioned for the observance of the ordinances of the municipal assembly. No greater penalty than one hundred dollars shall be imposed by an ordinance as the penalty of the violation of any ordinance by any dealer in second hand articles or scalper in coal freights.

Id.; designating common jails.

Sec. 52. The municipal assembly may, by ordinance from time to time, by a vote of two-thirds of the members of each house, and the approval of the mayor, designate any building or buildings within the city to be the common jails of said city for all the purposes for which common jails may by law be used, and such building or buildings so designated, shall be such common jails until changed by a like ordinance by the municipal assembly.

Id.; assignment of places for holding courts of general and special sessions and magistrates or police courts.

Sec. 53. The municipal assembly, by resolution or ordinance, by a vote of not less than two-thirds of all the members elected to each house, may assign such place in said city as may to it seem most conducive to the public convenience, for the holding of the courts of general and special sessions, and upon the application of the board of city magistrates,

may designate additional places for the holding of magistrates or police courts and jail delivery to be held in and for the city; notice of any change of the places of holding such courts shall, before the same takes effect, be published in the City Record and the corporation newspapers, for a period of not less than four weeks. Said publication shall be made under the direction of the city clerk.

Id.; assignment of places for holding municipal courts.

Sec. 54. The municipal assembly may assign the places where the several municipal courts shall be held, within their respective districts, except as otherwise provided by law.

Id.; security to be required from certain officers.

Sec. 55. It shall be the duty of the municipal assembly, where no provision has been made by law in respect thereto, to provide for the accountability of all officers and other persons, save as herein otherwise provided, to whom the receipt or expenditure of the funds of the city shall be intrusted, by requiring from them sufficient security for the performance of their duties of trust, which security shall be annually renewed; but the security first taken shall remain in force until new security shall be given.

Id.; prescribe salaries of officers.

Sec. 56. The salaries of all officers whose offices may be created by the municipal assembly for the purpose of giving effect to the provisions of this act shall, subject to the other provisions of this act, be prescribed by ordinance or resolution. The municipal assembly shall have power, upon the recommendation of the board of estimate and apportionment, to fix the salary of any officer or person whose compensation is paid out of the city treasury, irrespective of the amount fixed by this act, except that no change shall be made in the salary of an elective officer or head of a department during the term for which he was elected or appointed.

Id.; publication of code of ordinances.

Sec. 57. The ordinances of the municipal assembly shall, as far as practicable, be reduced to a code and published.

Id.; commissioner of deeds; appointment, oath, term; clerk therefor.

Sec. 58. The board of aldermen is hereby authorized and is empowered to appoint commissioners of deeds from time to time, who shall hold their offices for two years from the date of their appointment; such appointment shall not require the concurrence of the council nor the approval of the mayor, and hereafter, at the time of subscribing or filing the oath of office the city clerk shall collect from each person appointed a commissioner of deeds the sum of five dollars, and he shall not administer or file said oath unless said fee has been paid. All fees collected by the city clerk under and by virtue of this act, except as hereinafter provided, shall be accounted for and paid over monthly into the treasury of the city.

The city clerk shall appoint an officer, to be known as commissioner of deeds clerk, whose duties shall be to enter the names of commissioners of deeds appointed, in a book kept for that purpose, make out certificates of appointment and to discharge such other duties as the city clerk may designate. Said commissioner of deeds clerk shall receive a salary at the rate of twelve hundred dollars per annum, payable monthly.

Any person hereafter appointed to the office of commissioner of deeds in and for the city of New York by the board of aldermen, before entering upon the discharge of the duties of said office and within thirty days after such appointment, shall take and subscribe before the commissioner of deeds clerk, in the office of the city clerk, the following oath of office: That the applicant is a citizen of the United States and of the state of New York, and a resident of the city of New York; that he will support the constitution of the United States and the constitution of the state of New York, and faithfully discharge the duties of the office of commissioner of deeds. Any commissioner of deeds who may remove from the city of New York during his term of office is hereby required to notify the city clerk of such removal.

The term of office of every commissioner of deeds who, on the first day of May, 1898, shall be holding over after a term of two years, shall then cease.

Municipal assembly; trustees of public property.

Sec. 59. The municipal assembly and the several members thereof and all officers and employes of the city are hereby declared trustees of the property, funds and effects of said city respectively, so far as such property, funds and effects are or may be committed to their management or control, and every person residing in said city, when authorized to pay taxes therein, and who shall pay taxes therein, is hereby declared to be a cestui que trust in respect to the said property, funds and effects, respectively; and any co-trustees, or any cestui que trust, shall be entitled, as against said trustees, and in regard to said property, funds and effects to all the rights and privileges provided by law for any co-trustee, or cestui que trust to prosecute and maintain any action to prevent waste and injury to any property, funds and estate held in trust. Such trustees are hereby made subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by the city or by any co-trustee or cestui que trust aforesaid.

Municipal assembly; violations of law by members of:

Sec. 60. Any member of the municipal assembly who shall knowingly and willfully disregard any provision of law applicable to the members of said assembly, or who shall vote for any contract in violation of law or any appropriation unauthorized by law or in excess of the amount authorized by law, or for any illegal or injurious disposition of corporate property, rights or franchises, shall be guilty of a misdemeanor and liable to the punishment and penalties prescribed therefor; and every member voting in favor thereof shall be individually liable to refund the amount to the city at the suit of any citizen and taxpayer.

CHAPTER III.

FRANCHISES AND GRANTS OF LAND UNDER WATER.

Title 1. Franchises.
2. Grants of land under water.

TITLE 1.

FRANCHISES.

Inalienable rights of the city to its property.

Sec. 71. The rights of the city in and to its water front, ferries, wharf property, land under water, public landings, wharves, docks, streets, avenues, parks and all other public places are hereby declared to be inalienable.

Franchises to be granted by ordinance.

Sec. 72. Every grant of or relating to a franchise of any character to any person or corporation must, unless otherwise provided in this act, be by ordinance.

Limits and conditions to grants of franchises.

Sec. 73. After the approval of this act no franchise or right to use the streets, avenues, parkways or highways of the city shall be granted by the municipal assembly to any person or corporation for a longer period than twenty-five years, but such grant may at the option of the city provide for giving to the grantee the right on a fair revaluation or revaluations to renewals not exceeding in the aggregate twenty-five years. Such grant and any contract in pursuance thereof may provide that upon the termination of the franchise or right granted by the municipal assembly the plant, as well as the property of the grantee in the streets, avenues, parkways and highways with its appurtenances, shall thereupon be and become the property of the city without further or other compensation to the grantee; or such grant and contract may provide that upon such termination there shall be a fair valuation of the plant and property, which shall be and become the property of the city on the termination of the grant on paying the grantee such valuation. If, by virtue of the grant or contract the plant and property are to become the city's, without money payment therefor, the city shall have the option either to take and operate the said property on its own account, or to renew the said grant for not exceeding twenty years upon a fair revaluation, or to lease the same to others for a term not exceeding twenty years. If the original grant shall provide that the city shall make payment for the plant and property, such payment shall be at a fair valuation of the same as property excluding any value derived from the franchise; and if the city shall make payment for such plant and property it shall in that event operate the plant and property on its own account for at least five years, after which it may determine either to continue such operation on its own account or to lease the said plant and property and the right to use the streets and public places in connection therewith for limited periods in the same or similar manner as it leases its ferries and docks. Every grant shall make adequate provision by way of forfeiture of the grant or otherwise to secure efficiency of public service at reasonable rates, and the maintenance of the property in good condition throughout the full term of the grant. The grant or contract shall also specify the mode of determining the valuations and revaluations therein provided for.

Proceedings prior to grant of franchise.

Sec. 74. Before any grant of the franchise or right to use any street, avenue, parkway or highway shall be made, the proposed specific grant embodied in the form of an ordinance with all of the terms and conditions, including the provisions as to rates, fares and charges, shall be published at least twenty days in the City Record and at least twice in two daily newspapers published in the city to be designated by the mayor at the expense of the proposed grantee. Such ordinance shall on its introduction and first reading be referred by the municipal assembly to the board of estimate and apportionment, who shall make inquiry as to the money value of the franchise or privilege proposed to be granted and the adequacy of the compensation proposed to be paid therefor, and no grant thereof by the municipal assembly shall be made except on terms approved by vote or resolution of the board of estimate and apportionment, entered on the minutes or record of such board, and every ordinance

containing or making such grant shall require the concurrence of three-fourths of all the members elected to each branch of the municipal assembly as shown by the ayes and noes there recorded and the approval of the mayor, and thirty days at least shall intervene between the introduction and final passage of any such ordinance. It shall require a vote of five-sixths of all the members elected to each branch of the municipal assembly to pass such ordinance over the mayor's veto. This act shall apply to any renewal or extension of the grant or leasing of the property to the same grantee or to others.

Municipal assembly to pass ordinances.

Sec. 75. The municipal assembly may from time to time pass appropriate ordinances, not inconsistent with the constitution and laws of the state, to carry the provisions of this title into effect, but shall not part with the right and duty at all times to exercise in the interest of the public full municipal superintendence, regulation and control in respect of all matters connected with such grant, and not inconsistent with the terms thereof.

City may dispose of buildings not required for public use.

Sec. 764. Nothing in this title contained shall prevent the city from disposing of any building or parcel of land no longer needed for public use, provided such disposition shall be approved by the sinking fund commissioners, and shall be at public sale, and be provided for by ordinance.

Acts not applicable to grants under this chapter.

Sec. 77. Section 93 of chapter 565 of the laws of 1890 and any acts amendatory or supplemental thereto, shall have no application to grants made under and pursuant to this title.

TITLE 2.

GRANTS OF LANDS AND FRANCHISES TO CITY IN AID OF COMMERCE.

Grants of lands under water.

Sec. 83. To the end that the city of New York, as herein constituted, may be enabled to make needful provisions for the navigation, intercourse and commerce of the city and adequately to develop and secure the same now and in the future, the said city shall have the control, as herein and in this act provided, of the water front of the entire city, subject, however, to the rights of private owners of property, and also power to establish, construct, acquire, own, maintain and enjoy all ferries, public wharves, docks, piers, bulkheads, basins, slips, streets, approaches and spaces, and all other public structures, adjuncts and facilities necessary or proper for the navigation, intercourse and commerce, foreign and domestic, of the city. To these ends, in addition to all other grants, there is hereby granted in fee to the said city of New York, as herein constituted, in all the public streams, rivers, sounds, bays and waters of all descriptions at any and all places within said city or adjoining the limits of said city as herein constituted, all and singular the property, estate, right, title and interest of the people of the state of New York, in, to, of and concerning such lands and soil covered by water, as are embraced within the projected boundary lines of any street intersecting the shore line, and which street is in public use or which may be hereafter opened for public use, extending from high water mark out into said streams, rivers, sounds, bays and waters so far (any limits in existing grants to the contrary) as the said city shall now or at any time hereafter in the opinion of its municipal assembly, or department of docks and ferries require the same for ferries, public wharves, docks, piers, bulkheads, basins, slips or other public structures, adjuncts and facilities for navigation and commerce, including the right for such purposes to reclaim such lands from said waters, and including also all riparian rights, and all rents, issues and profits of the premises herein granted. The commissioners of the land office shall from time to time convey or patent the lands herein granted to the city for said purposes as and whenever required by the board of docks.

Property and franchises inalienable.

Sec. 84. The property franchises and rights hereby granted and the works and structures hereby authorized are not the subject of sale, but shall be held by the city in perpetuity. But this shall not prevent the city from leasing the same for limited periods of time, in the same manner as it leases other like property.

Private rights protected.

Sec. 85. This grant shall not impair or affect any existing valid private rights, or the existing riparian rights of owners of private property, or the lawful rights of private owners of docks, piers and other structures in the said city or any part thereof.

Patenting of lands under water by commissioners of the land office.

Sec. 86. After the approval of this act no patent of soil or land under water within the city of New York, as herein constituted, shall be made except to the city of New York or to the riparian proprietor. If the board of docks with the approval of the municipal assembly by ordinance, shall project a plan or plans for the construction of docks between street intersections as aforesaid, and desire a grant of land under water for that purpose, they shall make application therefor to the commissioners of the land office, who thereupon shall give notive to the riparian proprietor before taking action in the matter and shall make such grant to the city for the purposes specified in section 83. Such grant, however, shall be subject to all the rights of the riparian proprietor, and before the city shall construct such public wharves or other structures in front of the land of such riparian proprietor, the city shall make just compensation to such proprietor for the value of all the riparian rights. If the commissioners shall make a grant to the riparian proprietor, it shall be confined to soil or land under water in front of the land of such riparian proprietor. If application be made to the commissioners of the land office by the riparian proprietor for a grant of soil or land under water within the city of New York, as herein constituted, said commissioners shall give notice thereof to the board of docks of the city, which shall examine into such application and determine whether the granting of the same will conflict with the rights of the city under this act or be otherwise injurious to the public interests of the said city, and shall report their conclusions to said commissioners, who shall insert such terms and conditions in the grant recommended by the board of docks as will protect the public interests of the city in respect to navigation and commerce. The validity of any such grant or patent may be judicially determined in an action brought by and in the name of the city.

Power of municipal assembly.

Sec. 87. The municipal assembly may from time to time pass appropriate ordinances to carry, the provisions hereof into effect, not inconsistent with law or this act.

Repealing provision.

Sec. 88. All acts and parts of acts, so far as the same are inconsistent with this act are hereby repealed.

CHAPTER IV.

THE EXECUTIVE.

Mayor: executive power in and election of: salary.

Sec. 94. The executive power of the city of New York, as constituted by this act, shall be vested in the mayor and the officers of the departments. The mayor shall be the chief executive officer of the city; he shall be elected at the general election in the year 1897, and every four years thereafter, and shall hold his office for the term of four years commencing at noon on the first day of January after his election. He shall be ineligible for the next term after the termination of his office. The salary of the mayor shall be fifteen thousand dollars a year.

Mayor's power of removal.

Sec. 95. At any time within six months after the commencement of his term of office the mayor, elected for a full term, may, whenever in his judgment the public interests shall so require, remove from office any public officer holding office by appointment from the mayor, except members of boards of education and school boards, and except also judicial officers, for whose removal other provision is made by the constitution. After the expiration of said period of six months any such public officer may be removed by the mayor for cause upon charges preferred and after opportunity to be heard, subject, however, before such removal shall take effect to the approval of the governor expressed in writing.

Administrative departments.

Sec. 96. There shall be the following administrative departments in said city:

Department of finance.
Law department.
Police department.
Represented in the board of public improvements:

1. Department of water supply.
2. Department of highways.
3. Department of street cleaning.
4. Department of sewers.
5. Department of public buildings, lighting and supplies.
6. Department of bridges.

Department of parks.
Department of buildings.
Department of public charities.
Department of correction.
Fire department.
Department of docks and ferries.
Department of taxes and assessments.
Department of education.
Department of health.

Department of finance; controller.

Sec. 97. The head of the department of finance shall be called the controller of the city of New York. He shall be elected at the general election in the year 1897, and every four years thereafter, and shall hold his office for the term of four years, commencing at

noon on the first day of January after his election.

The controller may be removed from office by the governor in the same manner as sheriffs, except that the governor may direct the inquiry required by law, to be conducted by the attorney general, and after charges have been received by the governor, he may, pending the investigation, suspend the controller for a period not exceeding thirty days. In case of a vacancy in the office of controller it shall be filled by the mayor, and the person appointed to fill such vacancy shall hold office until noon of the first day of January succeeding the election at which a successor shall be elected. At the next general election at which municipal officers shall be elected, which shall take place more than thirty days after the occurrence of a vacancy in the office of controller, a successor shall be chosen who shall hold office for the remainder of the unexpired term.

Law department; corporation counsel.

Sec. 98. The head of the law department shall be called the corporation counsel, and shall, unless sooner removed, hold his office for four years and until his successor shall be appointed and has qualified.

Police department, police board.

Sec. 99. The head of the police department shall be called the police board. Said board shall consist of four members to be known as police commissioners of the city of New York, who shall, unless sooner removed, respectively hold their offices for four years and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for one, two, three and four years respectively, as designated by the mayor.

Board of public improvements and departments represented therein.

Sec. 100. The head of the board of public improvements shall be the president of said board. He shall be appointed by the mayor and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.

1. The head of the department of water supply shall be called the commissioner of water supply. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.

2. The head of the department of highways shall be called the commissioner of highways. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.

3. The head of the department of street cleaning shall be called the commissioner of street cleaning. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.

4. The head of the department of sewers shall be called the commissioner of sewers. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.

5. The head of the department of public buildings, lighting and supplies shall be called the commissioner of public buildings, lighting and supplies. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.

6. The head of the department of bridges shall be called the commissioner of bridges. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years and until his successor shall be appointed and has qualified.

Department of parks; park board.

Sec. 101. The head of the department of parks shall be called the park board. Said board shall consist of three members who shall be known as commissioners of parks. They shall be appointed by the mayor, and shall, unless sooner removed, respectively hold their offices for six years and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for two, four and six years, respectively, as designated by the mayor.

Department of buildings.

Sec. 102. The head of the department of buildings shall be called the board of buildings. Said board shall consist of three members to be known as commissioners of buildings. They shall be appointed by the mayor, and shall, unless sooner removed, hold their respective offices for the term of six years, and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless soner removed, hold office for two, four and six years respectively, as designated by the mayor.

Department of public charities; board of public charities.

Sec. 103. The head of the department of public charities shall be called the board of public charities. Said board shall consist of three members to be known as commissioners of public charities of the City of New York. They shall be appointed by the mayor and shall, unless sooner removed, respectively hold their offices for six years, and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for two, four and six years, respectively, as designated by the mayor.

Department of correction; commissioner of.

Sec. 104. The head of the department of correction shall be called the commissioner of correction. He shall be appointed by the mayor, and shall, unless sooner removed, hold his office for six years, and until his successor shall be appointed and has qualified.

Fire department; the fire commissioner.

Sec. 105. The head of the fire department shall be called the fire commissioner. He shall be appointed by the mayor, and shall, unless sooner removed, hold office for six years, and until his successor shall be appointed and has qualified.

Department of docks and ferries; board of docks.

Sec. 106. The head of the department of docks and ferries shall be called the board of docks. Said board shall consist of three members who shall be known as commissioners of docks and who shall, unless sooner removed, hold their respective offices for six years, and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for two, four and six years, respectively, as designated by the mayor.

Department of taxes and assessments; board of taxes and assessments.

Sec. 107. The head of the department of taxes and assessments shall be called the board of taxes and assessments. Said board shall consist of a president, who shall be so designated in his appointment, and four other members, one of whom at least shall be a person learned in the law, who shall be called commissioners of taxes and assessments. The president, unless sooner removed, shall hold his office for the term of six years, and until his successor shall be appointed and has qualified. The other commissioners shall, unless sooner removed, hold their respective offices for the term of four years. The commissioners first appointed under this act shall, unless sooner removed, hold office by designation of the mayor for terms of one, two, three and four years respectively. The commissioners thereafter appointed shall, unless sooner removed, hold office for the term of four years, and until their successors shall respectively be appointed and have qualified.

Department of education.

Sec. 108. The head of the department of education shall be called the board of education. Said board shall consist of nineteen members, and shall be composed as follows: Of the chairman of the school board of the boroughs of Manhattan and the Bronx, and ten other members elected by said school board; of the chairman of the school board of the borough of Brooklyn and five other members elected by said school board and of the chairman of the school boards of the boroughs of Queens and Richmond, respectively. The members of said board of education shall hold office for one year, and until their successors shall respectively be chosen and have qualified.

Department of health; board of health.

Sec. 109. The head of the department of health shall be called the board of health. Said board shall consist of the president of the police board, the health officer of the port, and three officers appointed by the mayor, to be called health commissioners, two of whom shall have been practicing physicians for not less than ten years preceding their respective appointments. The health commissioner, who is not a physician, shall be the president of the board and shall be so designated in his appointment. The health commissioners shall, unless sooner removed, respectively hold their offices for six years and until their successors shall respectively be appointed and have qualified, except that the commissioners first appointed shall, unless sooner removed, hold office for two, four and six years, respectively, as designated by the mayor.

CHAPTER V.

THE MAYOR,

Mayor; duties of.

Section 115. It shall be the duty of the mayor:

1. To communicate to the municipal assembly, at least once in each year, a general statement of the finances, government, and improvements of the city.

2. To recommend to the municipal assembly all such measures as he shall deem expedient.

3. To keep himself informed of the doings of the several departments.

4. To be vigilant and active in causing the ordinances of the city, and laws of the

state to be executed and enforced, and for that purpose he may call together for consultation and co-operation any or all of the heads of departments.

5. And generally to perform all such duties as may be prescribed for him by this act, the city ordinances and the laws of the state.

Id.; a magistrate.

Sec. 116. The mayor is a magistrate.

Id.; may appoint clerks, etc.

Sec. 117. The mayor may appoint such clerks and subordinates as he may require to aid him in the discharge of his official duties, and shall render to the municipal assembly, every three months, an account of the expenses and receipts of his office, and therein shall state, in detail, the amounts paid and agreed to be paid by him, for salaries to such clerks and subordinates respectively, and the general nature of their duties, which account and report shall be published in the City Record. The aggregate expenses incurred by him for such purposes shall not exceed, in any one year, the sum appropriated therefor.

Id.; to appoint heads of departments; terms of latter.

Sec. 118. The mayor shall appoint the heads of departments and all commissioners, except as otherwise provided in this act. He shall also appoint all members of any board or commission authorized to superintend the erection or repair of any building belonging to or to be paid for by the city, whether named in any law or appointed by any local authority, and also a commissioner of jurors for the boroughs of Manhattan and the Bronx, inspectors of weights and measures, and as many sealers of weights and measures as may by ordinance be prescribed, and also the members of any other local board and all other officers not elected by the people, whose appointment is not excepted or otherwise provided for. Every head of department and person in this section named shall, subject to the power of removal herein provided, hold his office for such term as is provided by this act or otherwise, and in each case until a person is duly appointed and has qualified in his place. The terms of office of all such heads of departments and persons, shall, as to those first appointed, commence at noon on the first day of January, 1898, and thereafter at noon on the first day of January, in the year in which the terms of office of their predecessors expire, except that any person who shall be appointed in pursuance of this section to fill any vacancy shall hold his office for the unexpired term of his predecessor.

Id.; to appoint commissioners of accounts.

Sec. 119. The mayor shall appoint and remove at pleasure two persons who shall be commissioners of accounts. It shall be their duty once in three months to make an examination of the receipts and disbursements in the offices of the controller and chamberlain, in connection with those of all the departments and officers making returns thereto, and report to the mayor a detailed and classified statement of the financial condition of the city as shown by such examinations. They shall also make such special examinations of the accounts and methods of the departments and offices of the city and of the counties of New York, Richmond and Kings as the mayor may from time to time direct, and such other examinations as the said commissioners may deem for the best interests of the city, and report to the mayor and municipal assembly the results thereof. For the purpose of ascertaining facts in connection with these examinations they shall have full power to compel the attendance of witnesses, to administer oaths and to examine such persons as they may deem necessary. Such commissioners shall each be paid the sum of five thousand dollars a year. The board of estimate and apportionment and the municipal assembly shall annually appropriate a sum sufficient to pay the salaries of said commissioners, and in the discretion of said board and municipal assembly a sum sufficient to enable them to employ the necessary assistance to carry on the provisions of this act.

Id.; proclamation as to holding courts in case of pestilence, etc.

Sec. 120. The mayor, or, in case of his absence or other disability, the president of the council, by proclamation, may direct that the next ensuing term of any court, other than the court of appeals, appointed to be held in that city shall be held in any building within the city of New York, other than the building where the same is regularly to be held, if, in his opinion, war, pestilence or other public calamity, or the danger thereof, or the destruction or injury of the building, or the want of suitable accommodation, renders it necessary that some other place be selected. The proclamation must be published in two or more daily newspapers, published in the city of New York.

Id.; police power as to pawnbrokers.

Sec. 121. The mayor shall possess the power conferred upon the chief, deputy chiefs, inspectors and captains of police by section 317 of this act.

Id.; removal by governor.

Section 122. The mayor may be removed from office by the governor in the same manner as sheriffs, except that the governor may direct the inquiry provided by law to be conducted by the attorney general; and after the charges have been received by the governor he may, pending the investigation, suspend the mayor for a period not exceeding thirty days.

Municipal civil service: mayor to appoint commissioners.

Sec. 123. The mayor shall appoint three or more suitable persons as commissioners to prescribe and amend, subject to his approval, and to enforce regulations for appointments to, and promotions in, the civil service thereof, and for classifications and examinations therein, and for the registration and selection of laborers for employment therein, in pursuance of the constitution of this state. Said commissioners shall receive no compensation.

Regulations.

Sec. 124. Such regulations shall, among other things, provide

1. For the classification of the offices, places and employments in the civil service of the said city.

2. For examinations, whenever practicable, to ascertain the fitness of applicants for appointment to the civil service of said city.

All examinations shall be public. No question in any examination under the rules established as aforesaid shall relate to political or religious opinions or affiliations, and no appointment or selection to or removal from an office or employment within the scope of the rules established as aforesaid, shall be in any manner affected or influenced by such opinions or affiliations. Such examinations shall be practical in their character and shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the position to which they seek to be appointed. Such examinations, save in the case of applicants for employment as laborers, shall be open, competitive examinations, except where, after due efforts by previous public advertisement or other effort in case of extraordinary emergency, competition is found not to be practicable. The examination of applicants for employment as laborers shall relate to their capacity for labor, their habits as to industry and sobriety, and the number of persons dependent upon them for support.

3. For the filling of vacancies in the offices, places and employments in the public service which are subject to competitive examination by selection from among those graded highest as the result of such examination, provided, however, that soldiers and sailors honorably discharged from the army and navy of the United States in the late civil war, who are citizens and residents of this state, shall be entitled to preference in appointment and promotion from any list from which an appointment or promotion is to be made, without regard to their standing on such list.

4. For a period of probation before an appointment or employment is made permanent.

5. For promotions in office on the basis of ascertained merit and seniority in service, and upon such examination as may be for the good of the public service.

Authority and duty of commissioners.

Sec. 125. The persons so appointed or employed shall be known as municipal civil service commissioners, and within the amount appropriated therefor they shall have authority to employ a secretary, examiners and such other subordinates as may be necessary. It shall be the duty of such persons to make reports from time to time to the state civil service commission, whenever said commission may request, of the manner in which the civil service law, and the rules and regulations thereunder, have been and are administered, and the results of their administration in such city, and of such other matters as said commission may require, and annually on or before the tenth day of January to make such a report to said commission, and it shall be the duty of said state commission in its annual report to set out either these reports, or a sufficient abstract or summary thereof, to give full and clear information as to their contents.

It shall be the duty of all persons in the official service of said city to conform to and comply with said regulations, and any modifications thereof made pursuant to the authority of this section or said rules, and to aid and facilitate in all reasonable and proper ways the enforcement of said regulations and rules and any modifications thereof, and the holding of all examinations which may be required under the authority of this section or said rules. Until the appointment of a municipal civil service commission under this act in said city the municipal civil service commissioners now in existence in any part of the territory of said city shall continue in office, and the civil service rules now in force therein shall continue to be in force until the adoption of new rules hereunder. The authority by this section conferred shall not be so exercised as to take from any policeman or fireman any right or benefit now conferred by law or by this act, or existing under any lawful regulation of the department in which

he serves. Proper provisions shall be made in the annual budget for all the expenses of the municipal civil service commissioners.

Warrants for payment of salary; when not to be issued.

Sec. 126. Any officer of said city whose duty it is to sign or countersign warrants, shall not draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the chamberlain or other disbursing officer of the city for the payment of salary to any person in its service whose appointment has not been made in pursuance of this chapter and the rules in force thereunder, provided, however, that this section shall not apply to persons now in office who are by this act continued in office, or transferred in service.

Veterans.

Sec. 127. All veterans either of the army or navy or the volunteer fire departments, now in the service of either of the municipal and public corporations hereby consolidated, who are now entitled by law to serve during good behavior, or who cannot under existing law be removed except for cause, shall, so far as is consistent with economy and with the needs and requirements of the service, be retained in like positions and under the same conditions by the corporation constituted by this act, to serve under such titles and in such way as the head of the appropriate department or the mayor may direct.

Bureau of municipal statistics.

Sec. 128. There shall be a bureau of municipal statistics of the city of New York for the purpose of collecting, keeping and publishing, as hereinafter or otherwise provided by law, such statistical data relating to the city, as shall be deemed of utility or interest to the city government or its citizens.

Bureau; how constituted.

Sec. 129. The bureau of municipal statistics shall consist of a chief of the bureau of municipal statistics, of a municipal statistical commission, and of such assistants to the chief of the bureau, as may be found necessary for properly carrying on the work of the bureau.

Chief of bureau to be appointed by the mayor.

Sec. 130. The chief of the bureau of municipal statistics shall be appointed by the mayor for a term of four years, and shall, unless sooner removed, hold office until his successor shall be appointed and have duly qualified. He shall be ex-officio a member and the chairman of the municipal statistical commission.

Municipal statistical commission; how constituted.

Sec. 131. The municipal statistical commission shall consist of not less than three, nor more than six members, exclusive of the chief of the bureau of municipal statistics. Such members shall be appointed by the mayor and shall be residents of the city. They shall be appointed with special reference to their qualifications to give expert advice upon statistical subjects. Their term of office shall be six years; but the members of the commission first appointed shall by lot divide themselves into three classes, so that one-third shall retire at the end of two years, one-third at the end of four years and one-third at the end of six years. The successors to such original commissioners shall be appointed for the term of six years.

Meetings of commission; quorum.

Sec. 132. The municipal statistical commission shall meet at such times as may be convenient, but at least once in each month. A majority of the commission shall constitute a quorum for the transaction of business.

Place of meeting.

Sec. 133. It shall be the duty of the board of estimate and apportionment to provide suitable offices, furniture and appliances for the use of the bureau of municipal statistics.

Compensation of chief of bureau and his assistants, and of the commission.

Sec. 134. The chief of the bureau of municipal statistics shall receive an annual salary of $3,500. He shall appoint his assistants, and shall fix their salaries with the approval of the board of estimate and apportionment. The members of the municipal statistical commission shall receive no compensation.

Powers and duties of the commission.

Sec. 135. The municipal statistical commission shall make such rules and by-laws as may be necessary for the regulation of the bureau of municipal statistics not in conflict with this act, or with any law of this state or of the United States, and shall direct the general work of the bureau of municipal statistics. The commission shall devise and carry out plans for the collection and publication by the bureau of municipal statistics of such statistical data relating to the City of New York as it may deem advisable to publish. The head of each department of the city shall, upon a request from the commission made through the mayor, and approved by him, transmit to the chief of the bureau of municipal statistics for use by the commission, upon such blanks as may be provided, or in such other manner as may be deemed convenient by the commission, such statistical data relating to the work of such department as the commission may call for.

Powers and duties of chief of bureau.

Sec. 136. The chief of the bureau of municipal statistics shall have charge of the execution of the plans outlined by the statistical commission, and shall, under the direction of the commission, attend to the collection, tabulation and publication of reports directed to be published by the commission.

Publication of statistics.

Sec. 137. The bureau of municipal statistics shall publish annually, with the approval of the board of estimate and apportionment, a volume to be known as the "Municipal Statistics of the City of New York for the year ." In this volume the statistical commission shall publish, in so far as it may deem advisable, the results attending the work of the various departments of the city government for the preceding calendar year, and such other statistical information and facts relating to the city of New York or its inhabitants as it may deem of general public interest. Such publication shall contain statistics relating to births, marriages, deaths; to the sanitary condition of the city; to the supervision of the water supply, parks, streets, pavements, sewers and buildings of the city; to the occurrence of fires; to the administration of charities and corrections; to the administration of the police department; to the judiciary and its various departments and branches; to crime; to the business and proceedings of the criminal courts and officers of the city; to the operation of the license laws; to the children attending school and to the public schools, to the work of the department of education, and to the population of the city of school age; to franchises granted to corporations, and whether they shall have been put in use or not; to municipal revenues and expenditures; to the administration of the various city departments having charge of the expenditure of city moneys; to the administration of the tax department, and to the wealth and indebtedness of the city; and also a general statement of the legislative enactments relating to the government of the city of New York.

Limitation of expense of maintaining the bureau of municipal statistics.

Sec. 138. The expenses of such publications and all other expenses of the bureau of municipal statistics, shall be included in the annual budget. The total expense of maintaining the bureau of municipal statistics, including salaries, shall not exceed in any one year the sum of ten thousand dollars, unless otherwise provided by the board of estimate and apportionment and the municipal assembly.

CHAPTER VI.

DEPARTMENT OF FINANCE.

Title 1. The Controller.
Title 2. The Bonds and Obligations of the City.
Title 3. The Chamberlain.
Title 4. The Sinking Funds.
Title 5. Appropriations and the Board of Estimate and Apportionment.
Title 6. Levying Taxes.

TITLE 1.

THE CONTROLLER.

General duties; settlement of claims. Assent to certain contracts required. Election. Salary.

Sec. 149. The finance department shall have control of the fiscal concerns of the corporation. All accounts rendered to or kept in the other departments shall be subject to the inspection and revision of the officers of this department. It shall prescribe the forms of keeping and rendering all city accounts, and, except as herein otherwise provided, the manner in which all salaries shall be drawn, and the mode by which all creditors, officers and employes of the corporation shall be paid. All payments by or on behalf of the corporation, except as otherwise specially provided, shall be made through the proper disbursing officer of the department of finance, on vouchers to be filed in said department, by means of warrants drawn on the chamberlain by the controller, and countersigned by the mayor. The controller may require any person presenting for settlement an account or claim for any cause whatever, against the corporation, to be sworn before him touching such account or claim, and when so sworn, to answer orally as to any facts relative to the justness of such account or claim. Wilful false swearing before him is perjury, and punishable as such. He shall settle and adjust all claims in favor of or against the corporation, and all accounts in which the corporation is concerned as debtor or creditor; but in adjusting and settling such claims, he shall, as far as practicable, be governed by the rules of law and principles of equity which prevail in courts of justice. The power hereby given to settle and adjust such claims shall not be construed to give such settlement and adjustment the binding effect of a judgment or decree, nor to authorize the controller to dispute the amount of any salary established by or under the authority of any officer or department authorized to establish the same, nor to question the due performance of his duties by such officer, except when necessary to prevent fraud. The controller shall not reduce the rate of interest upon

any taxes or assessments below the amount fixed by law. No contracts hereafter made, the expense of the execution of which is not by law or ordinance, in whole or in part, to be paid by assessments upon the property benefited, shall be binding or of any force, unless the controller shall indorse thereon his certificate that there remains unexpended and unapplied, as herein provided, a balance of the appropriation or fund applicable thereto, sufficient to pay the estimated expense of executing such contract, as certified by the officer making the same. But this provision shall not apply to work done, or supplies furnished, not involving the expenditure of more than one thousand dollars, unless the same is required by law to be done by contract at public letting. It shall be the duty of the controller to make such indorsement upon every such contract so presented to him, if there remains unapplied and unexpended such amount so specified by the officer making the contract, and to thereafter hold and retain such sum to pay the expense incurred until the said contract shall be fully performed. And such indorsement shall be sufficient evidence of such appropriation or fund in any action. The controller shall furnish to each head of department, weekly, a statement of the unexpended balances of the appropriation for his department. Wages and salaries, except as otherwise provided in this act, may be paid upon pay rolls, upon which each person named thereon shall separately receipt for the amount paid to such person, and in every case of payment upon a pay roll the warrant for the aggregate amount of wages and salaries included therein may be made payable to the superintendent, foreman or other officer designated for the purpose. The controller shall enter into, upon behalf of the city of New York, any lease authorized by the commissioners of the sinking fund of property leased to the city. The assent of the controller shall be necessary to all agreements hereafter entered into by any city officer or department for the acquisition by purchase of any real estate or easement therein, when such an agreement involves an obligation to pay or an expenditure of any money on behalf of the city, and in any proceedings that may hereafter be had to acquire real estate or hereditaments for or on behalf of the corporation of the city of New York, before an award shall be confirmed, imposing an obligation upon the city to pay any moneys, the controller shall have thirty days' notice in writing, stating before whom and at what time such proceeding will take place. The controller of the city of New York shall be elected and shall hold office as provided in this act, and he shall receive an annual salary of $10,000.

To appoint deputy controller.

Sec. 150. The controller shall appoint, and for cause to be stated in writing and published in the City Record, at pleasure remove, a deputy controller. The said deputy controller shall, in addition to his other powers, possess every power and perform all and every duty belonging to the office of controller, whenever the said controller shall, for reasons to be stated to the mayor in writing by due written authority, and during a period of time not extending beyond three months, nor beyond his term of office, and to be specified in such authority, designate and authorize the said deputy controller to possess the power and perform the duty aforesaid, and such designation and authority shall be duly filed in and remain of record in the department of finance and in the mayor's office. The said deputy controller shall possess the like authority in case of the disability of the controller, upon the like designation of the mayor, which shall be filed and remain of record as aforesaid; but such authority, derived from a designation from the controller or the mayor, may at any time be terminated in the same manner as it was created.

Bureaus of the finance department.

Sec. 151. There shall be five bureaus in this department.

1. A bureau for the collection of revenue accruing from rents and interests on bonds and mortgages, and revenue arising from the use or sale of property belonging to or managed by the city, and the management of the markets, the stalls or stands in which shall be rented on permits, to be issued by the controller, all of such permits heretofore or to be hereafter issued to be revocable by the controller for good and sufficient cause, and not otherwise, which shall be known as the bureau for the collection of city revenue and of markets. The chief officer of such bureau shall be called the collector of city revenue and the superintendent of markets.

2. A bureau for the collection of taxes, the chief officer of which shall be called the receiver of taxes. He shall receive a salary at the rate of $5,000 per annum.

3. A bureau for the collection of assessments, and of such taxes, assessments and water rents as are in arrears, the chief officer of which shall be called the collector of assessments and arrears. He shall receive a salary at the rate of $4,000 per annum.

4. An auditing bureau, which under the supervision of the controller shall audit, revise and settle all accounts in which the city is concerned, as debtor or creditor, and the chief officers whereof shall be called auditors of accounts, to be appointed or removed, as shall be also deputy auditors, at the pleasure of the controller. The number of said auditors and deputy auditors, as well as their salaries, shall be such as the controller shall from time to time fix and determine. During the absence of either or any or all of said auditors of accounts, from illness or other cause, said deputy auditors or any or either of them shall, when and to the extent he or they may be authorized so to do in writing by the controller, perform the duties and exercise the powers of either or of any or of all of the said auditors of accounts. The said auditing bureau shall keep an account of each claim for and against the corporation, and of the sums allowed upon each, and certify the same to the controller, with the reasons for the allowance. The controller may detail any of such auditors and deputy auditors as he may deem proper to the borough hall of the borough of Brooklyn, to the borough hall of the borough of the Bronx, to the borough hall of the borough of Queens and to the borough hall of the borough of Richmond, in addition to such as may be in the chief office of the controller in the borough of Manhattan. All such accounts arising from local improvements within the borough of Brooklyn may be audited, revised and settled by the auditor or the auditors of accounts so detailed as aforesaid by the controller in the borough hall of the borough of Brooklyn. All such accounts arising from local improvements within the borough of Queens may be audited, revised and settled by the auditor or auditors of accounts so detailed as aforesaid by the controller in the borough hall of the borough of Queens. All such accounts arising from local improvements within the borough of Richmond may be audited, revised and settled by the auditor or auditors of accounts so detailed as aforesaid by the controller in the borough hall of the borough of Richmond. And all such accounts arising from local improvements within the boroughs of Manhattan and the Bronx may be audited, revised and settled by any of the auditors of accounts in the chief office of the controller in the borough of Manhattan, or, so far as the borough of the Bronx is concerned, in the office to be located in the borough hall of the borough of the Bronx, and the auditors of accounts may have such clerks and assistants, examiners, engineers, inspectors and employes as the controller may deem necessary and proper, to be appointed by the controller. The number of said appointees, and their salaries, shall be fixed and determined from time to time by the controller.

5. A bureau for the reception and safe keeping of all moneys paid into the treasury of the city, and for the payment of money on warrants drawn by the controller and countersigned by the mayor, the chief officer of which shall be called the chamberlain.

Appointment and bond of receiver of taxes and collector of assessments and arrears.

Sec. 152. The controller shall appoint the receiver of taxes and the collector of assessments and arrears. The receiver of taxes and the collector of assessments and arrears, before entering upon the duties of their offices, shall each enter into a bond to the city of New York to be approved by the chamberlain and controller in the penal sum of twenty-five thousand dollars, which bond shall be conditioned for the faithful performance of the duties of the office by the officer giving such bond. Every such bond shall be a lien on all the real estate held jointly and severally by the said receiver or the said collector executing the same, as the case may be, or any surety thereto, within any of the counties embraced in the city of New York at the time of the filing thereof, unless there be named and described in or on any such bond real estate in one or more of such counties equal in value to the amount of said bond and owned by a surety, in which case the said bond shall be a lien on such real estate so described and upon all the real estate of the said receiver or collector as the case may be, and no other, and shall continue to be such lien until the condition, together with all costs and charges which may accrue by the prosecution thereof shall be fully satisfied, not to exceed, however, the period of ten years after the expiration of the term of the officer who has given such bond, unless an action thereon has been commenced and shall then be pending.

Renewal of bond.

Sec. 153. If at any time during the continuance in office of the said receiver of taxes or of any of the deputy receivers of taxes or of the collector of assessments and arrears or of any of the deputy collectors of assessments and arrears the controller shall deem any surety of them or either of them to be insufficient, he may require the said receiver or any deputy receiver or collector or any deputy collector, to enter into a new bond to be approved in like manner as herein prescribed, within such time as said controller may direct, not being less than ten days after requiring such new bond to be given; and in case of the neglect or refusal of any such officer to furnish such bond

within the time so directed, the controller may declare his office vacant.

Accounts of receiver and collector and their deputies to be examined.

Sec. 154. Upon the expiration of the term of office of the receiver of taxes or of any deputy receiver or of the collector of assessments and arrears or of any deputy collector and within one year thereafter, it shall be the duty of the controller to examine the accounts of such receiver or collector or deputy, and if found correct to cause a certificate to that effect to be filed with the bond of such officer, and such certificate so filed shall be a full discharge and satisfaction of the conditions of such bond and the lien or liens thereby created. And if at any time during his continuance in office any such receiver, collector, or deputy receiver, or deputy collector shall execute and file with the controller a new bond in the same form and penalty and approved as provided in section 152, it shall be the duty of the controller to examine and adjust the accounts of such receiver or collector or deputy, to the date of such filing, and, if found correct to cause a certificate to that effect to be filed with the bond or bonds previously filed by such officer, and such certificates so filed shall be the full discharge and satisfaction of the condition of such prior bond or bonds and of the lien or liens thereby created.

Receiver of taxes and collector of assessments and arrears; where to keep offices.

Sec. 155. The receiver of taxes and the collector of assessments and arrears shall each have his chief office in the borough of Manhattan at such places as shall be, from time to time, by ordinance of the municipal assembly designated for that purpose. Each of them shall also have an office in the borough of Brooklyn, in the borough of the Bronx, in the borough of Queens and in the borough of Richmond, at such places in said boroughs as shall be designated by the municipal assembly.

Receivers of taxes and collector of assessments and arrears may appoint deputies.

Sec. 156. The receiver of taxes and the collector of assessments and arrears may each appoint the requisite number of deputy tax receivers and of deputy collectors of assessments and arrears respectively. Each of them shall take from each deputy so appointed by him a bond, in such penal sum and with such sureties as may be approved by him and by the controller and chamberlain, which bond shall run to the receiver or the collector, as the case may be, the city of New York and to whom it may concern, and shall be conditioned for the faithful performance of the duties of such deputy. The receiver of taxes, and his sureties, shall be liable for the acts and defaults of the deputy receivers so appointed, and the collector of assessments and arrears, and his sureties, shall be liable for the acts and defaults of the deputy collectors. Each bond taken in pursuance of the provisions of this section shall be filed with the controller. Each deputy receiver of taxes shall have all the powers and be subject to all the duties of the receiver of taxes in respect to the collection and receipt of taxes, and each deputy collector of assessments and arrears shall have all the powers and be subject to all the duties of the collector of assessments and arrears, in respect to the collection of assessments and arrears. The deputy receiver of taxes and deputy collectors of assessments and arrears shall receive annual salaries to be fixed by the controller in his discretion, within the limits of the appropriation made therefor.

Where taxes, assessments and arrears due and payable.

Sec. 157. Taxes, assessments and arrears due upon property within the borough of Manhattan, shall be payable and receivable at the main offices of the receiver of taxes and of the collector of assessments and arrears respectively, in said borough. Taxes, assessments and arrears due upon property situated in every other borough shall be payable at the offices of said receiver of taxes or collector of assessments and arrears respectively, in the borough in which said property is situated.

Bond of receiver and collector to be filed.

Sec. 158. The bonds given by the receiver of taxes and the collector of assessments and arrears as hereinbefore provided shall be filed and remain in the office of the controller, and true copies thereof, certified by the controller, shall be filed in the office of the clerk of each of the counties wholly or partly embraced within the city of New York and shall be public records. In case a certificate of the adjustment of the accounts of any receiver or collector be made as hereinbefore provided a true copy thereof, certified by the controller, shall be filed in each of the offices in which a copy of the bond of said receiver or collector shall have been filed.

Assessment lists to be filed.

Sec. 159. There shall be kept in the office of the controller a full and complete record, in detail, of all lists of assessments confirmed, whether by the supreme court or the board of revision or the board of assessors, with the date of confirmation and the date of entry under such record, which record shall be open to inspection during office hours, and the same shall be received as presumptive evidence of the facts therein contained. An assessment shall become a lien upon the real estate affected thereby immediately upon its entry in the said record. If any such assessment list affects property situated in any borough other than the borough of Manhattan a copy of such list shall forthwith be transmitted to and filed in the office of the collector of assessments and arrears in the borough in which is situated the property so affected.

Controller to appoint clerks and assistants.

Sec. 160. The controller shall appoint as many clerks and assistants to the receiver of taxes and the collector of assessments and arrears as may be necessary, and shall designate the boroughs in which they shall respectively perform their duties, and shall, within the limits of the appropriation therefor, fix their salaries.

Publication of financial statement.

Sec. 161. It shall be the duty of the controller to publish in the City Record and corporation newspapers, two months before the election of municipal officers, a full and detailed statement of the receipts and the expenditures of the corporation during the two years ending on the first day of the month in which said publication is made, and the cash balance or surplus; and in every such statement the different sources of city revenue, and the amount received from each, the several appropriations made, the objects for which the same were made, and the amount of moneys expended under each, the money borrowed on the credit of the corporation, the authority under which each loan was made, and the terms on which the same was obtained, shall be clearly and particularly specified.

Application of certain moneys.

Sec. 162. It shall be lawful for the controller to apply the moneys accruing for interest on the sales of lands in said city for unpaid taxes, assessments and croton water rents, or so much thereof as shall be required, to the account or fund designated "lands purchased for taxes and assessments," such moneys to be used for purchases by the corporation at such sales.

Dedication of certain lands for markets.

Sec. 163. The lands in the Ninth ward of that part of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, bounded on the north by Bloomfield street, on the south by Gansevoort street, on the east by West street and Tenth avenue, and on the west by Thirteenth avenue, being a portion of the lands heretofore set apart by law for use as a market place, are hereby dedicated to market purposes, and shall be used and occupied as such in the manner that may be designated and prescribed by the commissioners of the sinking fund, who shall have full power and authority in respect thereto. Said commissioners of the sinking fund may, in their discretion, lease said lands to be used for public market purposes for such term of years, with such covenants, and for such annual rental, as in their judgment shall be for the best interests of the city, or may prepare the same for use as a public market. The block of ground in said ward bounded on the north by Little Twelfth street, on the south by Gansevoort street, on the east by Washington street, and on the west by West street and Tenth avenue, is hereby declared to be a public market place, and subject to the provisions of section 205 of this act, shall be kept for the exclusive use of farmers and market gardeners. The department of finance shall have sole charge and control of said public market place and of the wagons employed in the business of selling farm and garden produce in said city, and shall have power to make suitable regulations concerning fees, the hours during which the said business shall be conducted, and the general management of the same.

TITLE 2.

THE BONDS AND OBLIGATIONS OF THE CITY.

Corporate stock of the city of New York. How issued. Provisions as to bonded indebtedness.

Sec. 169. All bonds issued by the city of New York on and after January 1, 1898, in pursuance of laws already passed or which may hereafter be passed, or in pursuance of the provisions of this act, excepting assessment bonds and revenue bonds, shall be known as "Corporate Stock of the City of New York." For the redemption and payment of said corporate stock and the interest thereon, the faith and credit of the city of New York shall be and is hereby pledged. Such corporate stock shall be in such form as may be designated by the controller, and shall be signed by the said controller and the mayor of the city of New York, and sealed with the common seal of the city of New York, and attested by the city clerk. Such corporate stock shall be in coupon form in sums not less than five hundred dollars each share, or shall be registered, and shall be conditioned to be paid in gold coin, or in the legal currency of the United States, at the option of the commissioners of the sinking

fund and shall be made redeemable at a period of not less than ten, nor more than fifty years from the date thereof; provided, however, that such stock when issued to provide for the supply of water shall always be issued in the manner provided by Section 10 of Article VIII of the constitution of the state of New York. Such corporate stock and all assessment bonds and revenue bonds, as well as all bonds hereafter to be issued by the city of New York by virtue of this act or of any other act, whether general or special, shall be free and exempt from all taxation, except for state purposes. The interest on such corporate stock and on all other bonds of the corporation, except revenue bonds, shall not exceed four per centum per annum, and shall be made payable quarterly, or semi-annually, in the city of New York, or at such other place as may be fixed by the said controller at the time of issue of said stock or bonds; provided, however, that the interest on revenue bonds, issued in anticipation of the collection of taxes may be made payable at the date of the maturity thereof.

Corporate stock of the city of New York issued in pursuance of laws already passed or which may be hereafter passed, or in pursuance of the provisions of this act, shall be, unless otherwise provided by this act, issued by the controller only to the extent to which he may be thereunto authorized by resolution of the municipal assembly and the board of estimate and apportionment adopted by vote as provided for in this act; provided, however, that wherever by existing provisions of law, or by the provisions of this act, the commissioners of the sinking fund may be specifically authorized to provide for the issue of stocks or bonds, said authorization of the controller shall be made by said commissioners instead of the said municipal assembly and said board of estimate and apportionment, and provided, further, that whenever the amount of stocks or bonds required to be issued in pursuance of any law for any one purpose in any year shall not exceed the sum of one hundred thousand dollars, the controller may isue such bonds when thereunto authorized by the vote of a majority of the board of estimate and apportionment.

Issue of stock or bonds by the City of New York to take the place of bonds authorized to be issued by laws enacted prior to January 1st, 1898.

Sec. 170. Whenever, and to the extent to which, it may be lawful for the municipal or public corporations or parts thereof, including the counties of Kings and Richmond, which by this act are made part of the corporation of the city of New York, to issue for public purposes bonds pursuant to laws enacted prior to January 1, 1898, it shall be lawful for the city of New York, as hereby constituted, to issue corporate stock as herein provided for the same purposes; provided, however, that the amount so to be issued shall not in any one case exceed the balance remaining unissued of the amount limited to be issued pursuant to the authority of said laws. In similar instances assessment bonds and revenue bonds of the city of New York, as hereby constituted, may likewise be so issued, subject to the same limitations as to the amount thereof.

Bonds to be issued in sums of ten dollars or any multiple thereof.

Sec. 171. Whenever it shall be lawful to issue any bonds of the city of New York as constituted by this act, the same, when issued in registered form, may be issued in denominations of ten dollars or any multiple thereof. Preference shall, as far as practicable, and without pecuniary disadvantage to the said city of New York, be given to applicants for the smallest amounts and smallest denominations of said bonds in issuing the same.

Registration of stocks and bonds.

Sec. 172. All stocks and bonds heretofore lawfully issued by any of the municipal or public corporations or parts thereof, which have heretofore been annexed to or consolidated with the corporation known as the mayor, aldermen and commonalty of the City of New York, or which by this act are made part of the corporation of the City of New York, as hereby constituted, including the counties of Kings and Richmond, for the payment of the principal and interest, of which the City of New York is liable, may be registered and must be recorded by the owners thereof in the controller's office in said city; and shall be transferable at the pleasure of the holder, either in person or by attorney, only upon the books of the corporation in said office, and subject to such reasonable rules and regulations as the controller may prescribe; such registry and transfer to be indorsed thereon by the controller. Whenever such stocks or bonds have been issued in coupon form, and whenever hereafter corporate stock of the City of New York may be so issued, it shall be the privilege of the holders thereof at any time, subject to such rules and regulations to convert the same into registered stock or bonds, and the controller is hereby authorized to issue registered stock or bonds therefor in the manner and form in which the same would have been conditioned if originally issued in registered form. The interest on all such stocks and bonds, when so registered, shall, as the same becomes due and payable, be paid in like manner as upon other registered stock and bonds of the City of New York; and whenever any such stocks or bonds have coupons attached, the controller shall, upon registration thereof, have authority to detach all coupons therefrom, and shall thereupon indorse the fact of such registration, with a reference to this section.

Fund for street and park openings.

Sec. 173. The fund heretofore established and accumulated in the treasury of the corporation known as the mayor, aldermen and commonalty of the City of New York, entitled the fund for street and park openings, shall be continued in the corporation of the City of New York, as hereby constituted. The said fund for street and park openings shall consist of:

1. Whatever cash balance in said fund may upon January 1, 1898, be on deposit in the treasury of the corporation known as the mayor, aldermen and commonalty of the city of New York.

2. Whatever cash balances there may be on January 1, 1898, in the treasuries or standing to the credit of the several municipal or public corporations or parts thereof which by this act are made part of the corporation of the city of New York, and which said cash balances may be applicable to the payment of damages awarded by the commissioners of estimate and assessments in reports heretofore confirmed or hereafter to be confirmed in proceedings taken to open any street, road, avenue, boulevard, public square, or place, park or parkway, or to acquire title to land required for any bridge, tunnel or approach thereto, and all the costs and expenses of such proceedings heretofore or hereafter taxed.

3. Such sums as may be raised by taxation in the city of New York, and the proceeds of such bonds as may be issued as by this act provided to meet the expense, in whole or in part, of any of the objects and purposes in the preceding subdivision of this section specified.

4. All moneys hereafter collected by the city of New York, as hereby constituted, for or on account of assessments made and confirmed and hereafter to be made and confirmed for opening any street, road, avenue, boulevard, public square or place, park or parkway, or for acquiring title to land required for any bridge, tunnel or approach thereto, wholly or partly within the limits of the several municipal or public corporations or parts thereof, which by this act are made part of the corporation of the city of New York.

Damages, etc., to be paid from said fund.

Sec. 174. From the said fund for street and park openings, and not otherwise, shall be paid all damages awarded by the commissioners of estimate and assessment in reports hereafter or heretofore confirmed in proceedings taken to open any street, road, avenue, boulevard, public square or place, park or parkway, or to acquire title to land required for any bridge, tunnel or approach thereto in the city of New York, as hereby constituted, and all the costs and expenses of such proceedings heretofore or hereafter taxed. The person or persons to whom awards shall be made in such proceedings, wherein reports are or have been confirmed, and the person or persons in whose favor costs and expenses may be or have been taxed, shall not have an action at law against the city of New York for such awards, costs or expenses, but may require the officers of said city to raise, as hereafter provided, the money necessary to enable the controller to pay such awards, costs and expenses from the said fund, and thereafter compel the payment of such damages, costs and expenses from such fund. Whenever the amount of the damages awarded in any report, together with the costs of the commissioners and the charges and expenses, shall exceed the balance remaining in said fund after deducting all outstanding claims against said balance, the controller is authorized to raise by the issue and sale of revenue bonds such amounts as shall be necessary to pay such damages, costs and expenses; provided, however, that in each and every case in which by virtue of any existing statute or any statute hereafter enacted, or by virtue of any act or resolution heretofore or hereafter adopted by any board or body pursuant to any statute, the whole or any portion of the awards made in any proceeding, and of the costs and expenses thereof, are payable out of the fund for street and park openings and are not to be assessed upon the property benefited, but are to be borne and paid by the city of New York, the board of estimate and apportionment may, in its discretion, by a majority vote, direct that the amount so to be borne and paid by said city of New York shall be raised by the issue and sale of corporate stock of the city of New York, and the controller shall thereupon issue and sell said stock at such times and in such amounts as may be necessary, and shall pay the proceeds thereof into said fund for street and park openings.

Replenishment of said fund.

Sec. 175. The corporation counsel shall furnish to the board of estimate and apportionment in each year, at the time of making the estimate for the ensuing year, a list of all reports confirmed for the twelve preceding months with a statement of the amount of

awards and costs taxed in each proceeding. The controller shall at the same time furnish to the said board statements of the amount of such awards and costs already paid, and of the amounts due for awards and costs payable from the said fund and still unpaid, and of the amounts of revenue bonds then outstanding, issued in pursuance of the last preceding section, and of the balance in the treasury to the credit of the said fund. The municapl assembly and the said board shall thereupon include in the annual budget for the ensuing year a sum sufficient, with such balance, to pay all claims for the awards and costs in all proceedings in which reports shall have been prior to that time confirmed, and which awards shall not then have been paid, and also a sum sufficient to pay and discharge the revenue bonds then outstanding and issued in pursuance of the last preceding section.

Payment of assessments imposed upon the city of New York.

Sec. 176. It shall be the duty of and lawful for the controller when thereto authorized by the municipal assembly and the board of estimate and apportionment to issue such amounts of the corporate stock of the city of New York as shall be necessary to provide the funds to enable said controller to pay any and all assessments and expenses imposed, or that may hereafter be imposed upon the city of New York, by reason of the laying out, opening, regulating and grading or improving any and all streets, roads, avenues, public parks, squares or places, and out of the proceeds of said stock to pay such assessments and expenses.

Disposition of moneys received from certain assessments.

Sec. 177. The moneys collected upon the assessments laid by the commissioners of estimate and assessment, appointed in pursuance of Sections 670 to 678 inclusive of Chapter 410 of the Laws of 1882, as amended, shall be applied toward the payment of the fund or stock authorized by Section 140 of Chapter 410 of the Laws of 1882, or to the payment of said awards and expenses, if received before the issue of said fund or stock.

Expenses relating to the water supply. How to be met.

Sec. 178. It shall be the duty of the controller, and he is hereby authorized and directed when thereto authorized by the municipal assembly and the board of estimate and apportionment, on requisition of the commissioner of water supply, to raise, from time to time, on the issue of corporate stock of the city of New York, amounts of money sufficient to pay the sums which may be necessary from time to time to be paid for the acquisition of any real estate, or for the extinguishment of any right, title or interest therein to be acquired or extinguished under the provisions of the laws relating to the supply of water to the city, together with all expenses necessarily incurred in surveying, locating and acquiring title to such real estate, or extinguishing claims for damages thereto; and also all such sums as, from time to time, may be found necessary for the construction of aqueducts, reservoirs, dams, sluices, canals and appurtenances; and all such payments shall be made by the controller on the certificate of the commissioner of water supply, provided, however, that the amount so raised shall not in any one year exceed the limitations which, by law, may be or may have been imposed as to the amount of expenditure to be made therefor.

Bonds for drains.

Sec. 179. It shall be the duty of the controller, when thereto authorized by the board of estimate and apportionment, to issue assessment bonds in behalf of the city of New York, to an amount sufficient to raise the sum necessary to pay any damages that may from time to time be awarded to the owners of lands for the right of way required for drains and for the expense of plans and surveys and the fees of commissioners. The proceeds of such bonds shall be paid into the street improvement fund, from which fund payments as aforesaid shall be made, and assessments collected on account thereof shall be paid into said street improvement fund.

Expenses of the department of docks and ferries; how met.

Sec. 180. The controller shall, from time to time, when directed by the commissioners of the sinking fund, issue corporate stock of the city of New York for the purpose of raising the money necessary to carry out the provisions of Title 1 of Chapter XVI of this act, relating to the department of docks and ferries, its powers and duties. Not more than three million dollars of such stock shall be issued in any one year; provided, however, that there may also be issued an additional amount of such stock, equal to the balance remaining unissued of the amount of dock bonds authorized to be issued by the provisions of Chapter 246 of the Laws of 1896. The moneys received from sales of such stocks shall be deposited in the treasury of the city and shall be drawn out and paid by the controller of said city for the several objects and purposes provided in said title, relating to the said department, its powers and duties, upon the requisition of the board of docks, countersigned by the commissioners of the sinking fund. The expenses and compensation of said board, its rents, the compensation of its appointees, the purchase money and damages awarded upon the acquisition of private property, the payments under the contracts authorized in said title and for work performed under the same, and all other expenses and disbursements necessarily incurred in carrying out the said provisions of said title in keeping, maintaining, repairing, building and rebuilding the wharves belonging to the said corporation, in dredging and cleaning slips, shall be paid out of said moneys in the manner above provided.

Assessment bonds.

Sec. 181. It shall be lawful for the controller, when authorized by the board of estimate and apportionment to issue assessment bonds, at not less than par, for such periods as said controller may determine, not exceeding ten years, and bearing interest at a rate not exceeding four per cent. per annum, to provide the means necessary to pay all expenses incurred or to be incurred on account of regulating and paving streets, building sewers, and all other work ordered to be done by contract, by virtue of ordinances which may be hereafter passed by the municipal assembly of the city of New York, the expense whereof is to be collected by assessment from the property benefited by said work or works, or on account of any local improvement or other public work heretofore made or performed, or that shall hereafter be made or performed under and by virtue of the authority of any law in all cases in which the said expense is to be paid in whole or in part by assessment upon the property benefited. No moneys shall be paid out of the proceeds of said bonds on account of any contract hereinbefore referred to, until a copy of said contract has been filed with the controller of said city by the head of the department or board having such work in charge, and also a certificate in writing from the head of such department or board, stating that a payment is due and the amount of such payment. On work contracted for subsequent to May seventh, eighteen hundred and seventy-two, or hereafter contracted for, no interest shall be charged on the monthly or other intermediate payments to any contractor, and thirty per centum, and no more, shall be reserved from the amount or value of work specified and certified from time to time to the controller of said city, by the proper officer, to have been done by any contractor; and such reserved thirty per centum shall be paid to such contractor on or before the expiration of thirty days from the completion and acceptance of the work.

The fund heretofore created by the corporation known as the mayor, aldermen and commonalty of the city of New York, known as the street improvement fund, shall be continued, and into such fund shall be paid the proceeds of the sale of assessment bonds as by this section authorized, and of such bonds as may by other provisions of law be authorized to be issued for similar purposes within the territory of the city of New York, as hereby constituted, and for the payment of the expense of which the said city may in the first instance become liable, as well as the cash balances of assessments already collected, or to be hereafter collected, on account of similar contracts duly entered into by the proper authorities of the several municipal or public corporations, or parts thereof, which by this act are consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York.

Proposals for bonds and stock hereafter issued or purchased.

Sec. 182. Whenever any bonds or stocks shall be hereafter issued, other than revenue bonds, or such bonds and stocks as may be purchased for investment by the commissioners of the sinking fund, the controller shall invite proposals therefor by public advertisement, for not less than ten days, and shall award the same to the highest bidder or bidders therefor; provided that no proposals for bonds or stocks shall be accepted for less than the par value of the same; and said proposals shall be only publicly opened by the controller, in the presence of the commissioners of the sinking fund, or such of them as shall attend. Every bidder, as a condition precedent to the reception or consideration of his proposal, shall deposit with the controller a certified check, drawn to the order of said controller upon one of the state or national banks of the said city, or a sum of money; such check or money to accompany the proposal to an amount to be fixed by the controller not exceeding two and one half per centum of the amount of the proposal. Within three days after the decision as to who is or are the highest bidder or bidders, the controller shall return all deposits made to the persons making the same, except the deposit made by the highest bidder or bidders, and if the said highest bidder or bidders shall refuse or neglect, within five days after service of written notice of the award to him or them, to pay to the city chamberlain the amount of the stocks or bonds awarded to him or them at their par value, together with the premium thereon, less the amount deposited by him or them, the amount or amounts of deposit thus made shall be forfeited to and retained by said city as liquidated damages for such neglect or refusal, and shall thereafter be paid

into the sinking fund of the city of New York for the redemption of the city debt.

Expenses of restoring street pavements; how met.

Sec. 183. The moneys which the controller is authorized to pay pursuant to the provisions of section 525 of this act shall be obtained by him from time to time, as may be necessary, by the sale of assessment bonds as provided by section 181 of this act. The money collected pursuant to the provisions of said section 525 shall be set apart when collected as a trust fund, and applied to the redemption of the principal and interest of said bonds.

Redemption of certain bonds payable from collection of assessments.

Sec. 184. If at any time hereafter the amount in the treasury of the city derived from collections of assessments shall be insufficient to meet and pay, when they become due and payable, any bonds issued by the city of New York, as hereby constituted, or any bonds heretofore issued by any of the municipal or public corporations or parts thereof hereby consolidated into the city of New York, for expenditures incurred on public improvements, payable in whole or in part from assessments, then it shall be lawful for the controller, when thereto authorized by the municipal assembly and the board of estimate and apportionment, to issue corporate stock of the city of New York for an amount sufficient to pay the bonds so falling due as aforesaid; or the controller may in his discretion, for such purpose, issue assessment bonds in the manner provided by section 181 of this act.

Deficiencies in collections of arrears of assessments; how met.

Sec. 185. The controller is hereby authorized to issue from time to time assessment bonds in the manner provided by section 181 of this act, to provide such amounts as may be required to meet the deficiencies caused by delay in collecting arrears of assessments; the aggregate amount so issued not to exceed at any time the aggregate amount of said arrears then outstanding.

Bonds for state taxes.

Sec. 186. For the purpose of enabling the city of New York to make payment of the quota of state taxes which may be imposed upon, and chargeable to, the said city and the counties wholly comprised therein, and the part of Queens county included in said city, at the same time or times that other counties of this state are or may be required to make payment by law, the controller is hereby authorized and required, unless the money for the payment of the same shall have been otherwise provided, to issue revenue bonds for such amounts as may from time to time become necessary to meet such quota of the state taxes, and from the proceeds thereof, to pay to the state treasurer the amount of taxes which the controller of the state shall have apportioned according to law, and which may be required to be paid in pursuance of such apportionment to the state by the city of New York and said counties and said part of Queens county at such times.

Revenue bonds; special funds.

Sec. 187. The controller is authorized to borrow, from time to time, on the credit of the corporation, in anticipation of its revenues, and not to exceed in amount the amount of such revenues, such sums as may be necessary to meet expenditures under the appropriations for each current year. Such amounts shall be obtained by the issue of revenue bonds, which shall be redeemed out of the proceeds of the tax levy in anticipation of the collection of which such bonds were issued.

Whenever the controller may be authorized by the provisions of this act, or by laws heretofore or hereafter enacted, to issue revenue bonds for purposes other than to meet expenditures under the appropriations for each current year, such revenue bonds shall be redeemed out of the tax levy for the year next succeeding the year of their issue, and the necessary appropriation therefor shall be made by the municipal assembly and the board of estimate and apportionment in the budget for such year. Such last mentioned bonds may be designated and known as "Special Revenue Bonds."

Cash balances of special funds in the treasuries or to the credit of the several municipal or public corporations or parts thereof, including the counties of Kings and Richmond, hereby consolidated with the mayor, aldermen and commonalty of the city of New York shall be transferred by the controller to like special funds of the city of New York where such exist; and such special funds shall thereupon be liable for payments which would otherwise have been made out of the funds so transferred. Where no similar funds exist in the treasury or to the credit of the city of New York, such special fund shall be, so far as practicable, administered in the same manner as they would have been administered, if this act had not been passed. Whenever, within two years after the passage of this act, it shall appear that the charges and liabilities of any such special fund exceed the available assets thereof, it shall be lawful for the board of estimate and apportionment, upon the written request of the controller, to authorize the issue of revenue bonds or assessment bonds or corporate stock of the city of New York, for the purpose of supplying such deficiency.

Special revenue bonds.

Sec. 188. The controller is authorized to issue special revenue bonds to provide the means necessary to make payments for the following purposes:

1. The expenses necessarily incurred in condemning unsafe buildings as provided by section 511 of chapter 410 of the laws of 1882.

2. Amounts audited by the board of estimate and apportionment pursuant to section 231 of this act.

3. Such amounts as may be necessary to pay judgments recovered against the corporation.

4. The amount appropriated in pursuance of section 236 of this act in those cases in which the appropriations are made after the final passage of the annual appropriation and the certification to the municipal assembly of the amount to be raised.

5. The amount necessary to defray the expense of supplying water meters as authorized by section 475 of this act.

6. To provide for deficiencies in the fund for street and park openings as provided in section 174 of this act.

7. To provide for the payment of claims, charges, expenses and appropriations which have been or may be hereafter by law specifically imposed upon the city of New York, as hereby constituted, and the several counties wholly included within its limits by the legislature, and for which no other provision for payment has been made.

8. To provide for the payment of expenses authorized by the concurrent vote of all the members of the board of estimate and apportionment upon a joint resolution requesting such authorization, adopted by the affirmative vote of three-fourths of all the members elected in each branch of the municipal assembly of New York city; provided, however, that the amount thus issued shall not in any one year exceed two hundred and fifty thousand dollars.

9. To meet and pay the expenses incurred pursuant to the provisions of sections 1,177 and 1,178 of this act.

TITLE 3.

THE CHAMBERLAIN.

How appointed; bond.

Sec. 194. The chamberlain shall be appointed in the same manner as heads of departments, and shall hold his office for four years, unless sooner removed, as herein provided. He shall, within ten days after receiving notice of his appointment and before he enters upon his office, give a bond to the people of the state of New York in the sum of three hundred thousand dollars, with not less than four sufficient sureties, to be approved by the controller, conditioned that he will faithfully discharge the duties of his office and all trusts imposed on him by law in virtue of his office. Such bond shall be deemed to extend to the faithful execution of the duties of the office until a new appointment shall be made and confirmed, and the person so appointed enters upon the performance of his duties. In case of any official misconduct or default on the part of such chamberlain, or his subordinates, an action upon such bond may be begun and prosecuted to judgment by the attorney general, or by the city, who shall, after first paying therefrom the expenses of the litigation, cause the proceeds of such judgment to be distributed as shall be lawful and equitable among the persons and objects injured or defrauded by such official misconduct or default of said chamberlain, or any of his subordinates.

Duties. Accounts of to be examined by commissioners of accounts.

Sec. 195. Said chamberlain shall exhibit to the municipal assembly, at its first meeting in the month succeeding that in which he enters upon the execution of his office, an exact statement of the balance in the treasury to the credit of the city, with a summary of the receipts and payments of the treasury during the preceding year, and since the last preceding report required by law, if more than a year shall have elapsed since such report. He shall receive all moneys which shall from time to time be paid into the treasury of the city. He shall deposit all moneys which shall come into his hands on account of the city on the day of the receipt thereof, or on the business day next succeeding, in such banks and trust companies as shall have been designated as deposit banks in pursuance of the next section; but no amount shall be on deposit at any one time in any one bank or trust company exceeding one-half of the amount of the capital and net surplus of such bank or trust company. The money so deposited shall be placed to the account of the chamberlain, and he shall keep a bank book, in which shall be entered his account of deposit in, and moneys drawn from the banks and trust companies in which the deposits shall be made. The said banks and trust companies shall, respectively, transmit to the controller a weekly statement of the moneys which shall be received and paid by them on account of the city treasury. The chamberlain shall pay all warrants drawn on the treasury by the controller and countersigned by the mayor, or to the chief clerk of the mayor when empowered by the mayor in writing

so to do, and no moneys shall be paid out of the treasury except on the warrant of the controller so countersigned. No such warrant shall be signed by the controller or countersigned by the mayor, except upon vouchers for the expenditure of the amount named therein, examined and allowed by an auditor of accounts, approved by the controller and filed in the department of finance, except in the case of judgments, in which case a transcript thereof shall be filed, nor except such warrant shall be authorized by law or by ordinace, and shall refer to the law or ordinance, and to the appropriation under and from which it is drawn. The chamberlain shall not draw any moneys of the city treasury from said banks or trust companies unless by checks subjoined and attached to such warrants and subscribed by him as chamberlain, and no moneys shall be paid by either of the said banks or trust companies on account of the treasury except upon such checks. The chamberlain shall exhibit his bank book to the controller on the first Tuesday of every month, and oftener when required. The accounts of the chamberlain shall be annually closed on the last day of November, and shall be examined in the month of December in each year by the commissioners of accounts. Such commissioners shall examine the accounts and vouchers of all moneys received into and paid out of the city treasury during the year ending on the last day of November next preceding such examination, and shall certify and report to the mayor and municipal assembly in the following month of January the amount of moneys received into the treasury during such year, the amount of moneys paid out during the same period by virtue of warrants drawn on the treasury by the controller, the amount of moneys received by the chamberlain, who shall be in office at the time of such examination, if he entered upon the execution of his duties since the last preceding report, the balance in the treasury on the last day of November preceding such examination, the amount of moneys borrowed for or on the credit of the city during such year and the amount of the bonds of the city issued during such year, with the purposes for which and the authority under which such bonds were issued. Such commissioners shall also compare the warrants drawn by the controller on the treasury during the year ending on the last day of November preceding such examination, with the several laws and ordinances under which the same shall purport to have been drawn, and shall in like manner certify and report whether the controller had power to draw such warrants; and if any shall be found which, in their opinion, he had no power to draw, they shall specify the same in their report, with their reasons for such opinion.

Public moneys; where to be deposited Salary of chamberlain.

Sec. 196. The said chamberlain and mayor and controller shall, by a majority vote, by written notice to the controller, designate the banks or trust companies in which all moneys of the City of New York shall be deposited, and may, by like notice in writing, from time to time, change the banks and trust companies thus designated; but no such bank or trust company shall be designated unless its officers shall agree to pay into the city treasury interest on the daily balances at a rate to be fixed by the mayor and chamberlain and the said controller of the City of New York, by a majority vote, which rate shall be so fixed quarterly, on the first days of February, May, August and November in each year, according to the current rate of interest upon like balances deposited in banks and trust companies in the City of New York by private persons and corporations. The said chamberlain shall keep books showing the receipts of moneys from all sources, and designating the sources of the same, and also showing the amounts paid from time to time on account of the several appropriations, and no warrants shall be paid on account of any appropriation after the amount authorized to be raised for that specific purpose shall have been expended. The said chamberlain shall once in each week report in writing to the mayor and to the controller all moneys received by him, the amount of all warrants paid by him since his last report, and the amount remaining to the credit of the city. The chamberlain shall receive the sum of $12,000 annually, and no more, for his services as chamberlain of said city, and as county treasurer of the county of New York, in lieu of all salary and of all interest, fees, commissions and emoluments; and all such interest, fees, commissions and emoluments shall be accounted for and paid over by him to the city treasury, except that the commissions or compensation provided by law, and received by him for receiving and paying over the state taxes and all interest which accrue on deposits shall be paid by him to the commissioners of the sinking fund. He may appoint and remove at pleasure, deputy chamberlains, and such clerks and assistants as may be necessary, whose salaries, together with all the expenses of his office, shall be paid by the City of New York when fixed by him and approved by the municipal assembly and the board of estimate and apportionment.

Certain sections of code of civil procedure respecting moneys paid into court, applicable.

Sec. 197. Each provision of title three of chapter eight of the code of civil procedure, relating to a county treasurer, applies to the chamberlain, with respect to money paid into court, in an action triable in the City of New York, as hereby constituted, or with respect to money, or a bond, mortgage, or other security, or public stock, representing money paid into court, except where special provision, with respect to the same, is otherwise made by law.

Fees.

Sec. 198. The chamberlain is entitled, for the services specified in this section, to collect for, and on behalf of the city the following fees: For receiving money paid into the court, one-half of one per centum upon the sum so received. For paying out the same, one-half of one per centum upon the sum so paid out. For investing money, pursuant to the direction of the court, one-half of one per centum upon the sum invested, not exceeding two hundred dollars, and one-quarter of one per centum upon the excess over two hundred dollars. For receiving the interest upon an investment, and paying the same to the person entitled thereto, one-half of one per centum upon the interest so received and paid. All of said fees when collected by said chamberlain shall be paid by him into the city treasury as provided in section 196 of this act.

TITLE 4.

THE SINKING FUND.

Commissioners of the sinking fund: how constituted.

Sec. 204. There shall be a board of commissioners of the sinking fund, composed of the mayor, controller, chamberlain, president of the council and chairman of the finance committee of the board of aldermen, with all the powers and duties now assigned, designated and reposed by law or ordinance in the commissioners of the sinking fund of the city of New York, as heretofore constituted, of the city of Brooklyn and of Long Island City, or the officers intrusted with similar powers and duties in any of the municipal or public corporations or parts thereof including the counties of Kings and Richmond, hereby consolidated with the mayor, aldermen and commonalty of the city of New York, except as otherwise provided in this act. The said board shall administer each of the said several sinking funds, and perform, carry out and exercise the several trusts, powers, obligations and duties relating thereto, in the same manner as the same would have been administered, performed, carried out and exercised if this act had not been passed, except as otherwise provided in this act.

The assets and accounts of each of said sinking funds shall, except as hereinafter otherwise provided, be kept separate and distinct, and the same shall in all respects be administered as independent trusts, subject to and governed by the several provisions of law or ordinance heretofore relating thereto, with the intent and purpose of preserving inviolate the rights of holders of bonds and stocks heretofore issued by any of the municipal and public corporations or parts thereof hereby made part of the city of New York, including the counties of Kings and Richmond.

Powers.

Sec. 205. The said board shall, except as in this act otherwise specifically provided, have power to sell or lease for the highest marketable price or rental at public auction or by sealed bids, and always after public advertisement and appraisal under the direction of said board, any city property except parks, wharves and piers and land under water, but not for a term longer than ten years nor for a renewal for a longer period than ten years. But if said property be market property excepting the market between Sixteenth and Seventeenth streets, east of Avenue C; the market in Gouverneur slip and the market in Old slip, it shall not be sold or leased unless under a condition that the purchaser or lessee thereof shall maintain said market property as and for the purposes of a public market for at least ten years from and after such sale or lease, and under due ordinances of the municipal assembly of the department of health or under stipulations in the deed of sale or lease, unless otherwise ordered by the commissioners of the sinking fund and the municipal assembly. The proceeds of said sale or leasing shall on receipt thereof, after paying necessary charges, be immediately paid to the credit of the sinking fund of the city of New York for the redemption of the city debt.

The provisions of existing laws or ordinances relative to the investment of moneys and assets of the several sinking funds hereby made subject to the control of the commissioners of the sinking fund, as hereby constituted, in bonds, stocks or obligations of the municipal or public corporations or parts thereof hereby consolidated into the city of New York, including the counties of Kings and Richmond, shall hereafter apply to investment thereof in the bonds and stock of the corporation of the city of New York, issued on and after January 1, 1898, provided, however, that such bonds or stocks shall not thereupon or thereafter be canceled, except as herein otherwise specifically provided, but the same shall upon their maturity be paid off, liquidated or discharged

in the same manner as they would be if held by private creditors.

It shall be lawful for the commissioners of the sinking fund in their discretion, and they are hereby empowered in such discretion, to cancel from time to time, but not before maturity, bonds and stocks of any of the municipal and public corporations or parts thereof forming part of the corporation of the city of New York, as hereby constituted, and of the counties of Kings and Richmond, which may be held by any of said sinking funds on December 31, 1897, providing said bonds and stocks are by law redeemable from the sinking funds in which the same are held. It shall also be lawful for the commissioners of the sinking fund in their discretion, and they are hereby empowered in such discretion, to cancel from time to time, but not before maturity, any portion of the indebtedness of the city of New York, as hereby constituted, incurred on or after January 1, 1898, which may be held by them in the "Sinking fund of the city of New York," as hereinafter constituted, and which may by law be redeemable from said sinking fund as herein or elsewhere provided, and all such similar indebtedness incurred to provide for the supply of water, which may be held by them and redeemable from "The water sinking fund of the city of New York" as hereinafter constituted.

The funds to be known as the "sinking fund of the city of New York" and the "water sinking fund of the city of New York," as hereinafter constituted, shall be administered by the commissioners of the sinking fund, in like manner as provided by the ordinance of the mayor, aldermen and commonalty of the city of New York, approved by the mayor, February 22, 1844, so far as the same may be applicable; provided, however, that nothing contained in said ordinance shall affect or alter the composition of the board of commissioners of the sinking fund, as by this act constituted.

The sinking fund of the city of New York.

Sec. 206. There shall be created a fund to be known as the "sinking fund of the city of New York," which shall have for its purposes the liquidation of the principal of the debt of the corporation of the city of New York incurred on or after January 1, 1898, as to which no provision for the payment thereof otherwise than from taxation is made, and excepting revenue bonds and bonds issued to provide for the supply of water pursuant to the provisions of section 10 of article VIII, of the constitution of the state of New York. For the redemption of such debt out of said sinking fund there shall be annually included in the budget and paid into the sinking fund of the city of New York herein created, an amount to be estimated and certified by the controller, and to be by the municipal assembly and the board of estimate and apportionment inserted in the budget for each year, which with the accumulations of interest thereon shall be sufficient to meet and discharge such bonds or stock by the time the same shall be payable.

Whenever the bonds and stocks outstanding on December 31, 1897, and being charges or liens on any of the sinking funds hereby made subject to the control of the commissioners of the sinking fund, shall in respect to any such sinking fund be wholly discharged, liquidated or canceled, it shall thereupon be lawful for the commissioners of the sinking fund to cancel such bonds of the corporation of the city of New York issued on or after January 1, 1898, as may be held by such sinking fund, and the revenues of such sinking fund when thus relieved of such liens or charges shall thereupon and thereafter be paid into the sinking fund of the city of New York, as herein created. Whenever such payments shall be made, the controller in making the certificate to the board of estimate and apportionment by this section required shall take into account the amount thereof, and deduct the same from the estimated amount to be included in each year's budget as herein provided.

Sinking funds for redemption purposes to be continued.

Sec. 207. The fund known as the sinking fund of the city of New York for the redemption of the city debt, and the fund known as the sinking fund of the city of Brooklyn, and the like funds of each and every of the municipal or public corporations or parts thereof by this act consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York, including the counties of Kings and Richmond, shall be continued and the funds, moneys, revenues and assets heretofore pledged and appropriated to each of said funds shall continue to be and the same are hereby pledged and appropriated thereto severally and respectively in the same manner as though this act had not been passed, until such time as the bonds, stocks and obligations outstanding on December 31, 1897, and redeemable therefrom, shall have been respectively cancelled, liquidated, discharged and redeemed.

Wherever, by existing laws or ordinances, the duty is imposed upon boards or officers of the several municipal or public corporations or parts thereof hereby consolidated with the mayor, aldermen and commonalty of the city of New York, including the counties of Kings and Richmond, to raise by taxation, annually or otherwise, amounts of money for sinking fund purposes, or for the redemption of or payment of interest on bonded indebtedness, for which the city of New York, as hereby constituted, is by this act made liable, it shall be the duty of the proper officers of the said, the city of New York, in like manner to raise such amounts by taxation upon the estates, real and personal subject to taxation in said city.

Sinking funds created pursuant to constitutional requirements; water sinking fund of the city of New York.

Sec. 208. There shall be created a fund to be known as the water sinking fund of the city of New York, which shall have for its purpose the liquidation of the principal of the debt incurred by the city of New York, as hereby constituted, on or after January 1, 1898, for the supply of water as provided by section 10 of article VIII of the constitution of the state of New York.

The funds known as the sinking fund No. 2 of the city of New York, the water sinking fund of the City of Brooklyn and the sinking funds of each and every municipal and public corporation or part thereof hereby made part of the corporation of the city of New York, including the counties of Kings and Richmond, created pursuant to the requirements of the constitutional amendment adopted November 4, 1884, or of section 10 of article VIII of the constitution of the state of New York, shall be continued, and the funds, moneys, revenues and assets heretofore pledged and appropriated to each of said funds shall, except as herein otherwise specially provided, continue to be severally and respectively so pledged and appropriated. It shall, however, be the duty of the controller of the city of New York, as soon as practicable after the passage of this act, to cause an examination to be made as to the condition of said funds, and if it appears to him, and he shall so certify to the commissioners of the sinking fund, that said funds or any of them have been managed, invested and administered in the manner required by the provisions of the constitution of the state of New York as aforesaid, it shall be lawful for the said commissioners of the sinking fund, by concurrent vote, to authorize and direct the amalgamation of said fund or funds with the water sinking fund of the city of New York, as hereby constituted.

Sinking funds for the payment of interest.

Sec. 209. The fund known as the sinking fund of the city of New York for the payment of the interest accruing and to accrue upon the stocks of said city until the same be fully and finally redeemed shall be continued, and after providing for the interest on the bonds and stocks now payable therefrom as provided by law, shall form a fund which shall be transferred to the sinking fund of the city of New York for the redemption of the city debt; provided, however, that nothing herein contained shall authorize the payment from said fund of any interest which may accrue on bonds to be issued by the corporation of the city of New York, as hereby constituted, after January first, one thousand eight hundred and ninety-eight. Like funds in any of the municipal or public corporations or parts thereof which by this act are made part of the corporation of the city of New York, as hereby constituted, including the counties of Kings and Richmond, shall likewise be continued, and any surplus that may remain therein after fully satisfying all claims, liens or charges that may exist against such funds pursuant to law or ordinance shall, unless otherwise provided by law, be transferred to the sinking fund of the city of New York, as herein constituted.

Disposition of certain moneys received for local improvements.

Sec. 210. All moneys now in the treasury of the corporation known as the mayor, aldermen and commonalty of the city of New York heretofore collected and received in payment or on account of assessments made and confirmed for local improvements in said city, and all moneys which shall hereafter be collected and received in payment or on account of assessments made and confirmed, or which may be made and confirmed, for local improvements in said city completed prior to June third, eighteen hundred and seventy-eight, shall be paid into the sinking fund for the redemption of the city debt, and the same is hereby, in addition to the revenues and moneys aforesaid, pledged and appropriated to said sinking fund for the payment of the bonds and stocks of said city, to be paid and redeemed therefrom as herein provided.

Funds and revenues pledged to redemption of city debt.

Sec. 211. Between the city and its creditors, holders of its bonds and stocks as aforesaid, including the bonds and stocks of the municipal or public corporations or parts thereof consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York, as well as those of the latter corporation and of the counties of Kings and Richmond, there shall be and there is hereby declared to be a contract that the funds and revenues of the city, including all the corporations last stated and said counties of Kings and Richmond, and the funds to be collected from assessments pursuant to any

law by this chapter pledged to the sinking fund for the redemption of the city debt, shall be accumulated and applied only to the purposes of the said several sinking funds as prescribed by law, until all of said debt redeemable therefrom is fully redeemed and paid, as herein provided.

Sinking fund for the redemption of the city debt not to be alienated or impaired.

Sec. 212. Nothing in this chapter contained shall be held to require or authorize the commissioners of the sinking fund to use or apply any part or portion of the accumulations in said sinking fund for the redemption of the city debt, or the revenues of said fund in any manner whatever, whereby the security of said fund for the payment of the bonds and stocks of the corporation known as the mayor, aldermen and commonalty of the city of New York, for which said fund is now pledged by law, and which are a charge on said fund, shall be alienated or impaired, and the said bonds and stocks so secured by law are hereby declared to constitute a preferred charge on said sinking fund until the same are fully and finally paid and redeemed.

Commissioners may call in bonded debt. Consolidated stock of the city of New York: lien of, on sinking fund for the redemption of the city debt.

Sec. 213. The commissioners of the sinking fund are hereby authorized and empowered to call in, pay, and redeem any portion of the bonded debt constituting a charge upon the treasury of the city of New York, as constituted by this act, other than revenue bonds, issued in anticipation of the collection of taxes, when they may deem it to be advantageous for the interest of the city so to do, and for this purpose the said commissioners of the sinking fund are hereby empowered to authorize, by a concurrent vote, and direct the controller to issue and sell or exchange therefor at not less than par, corporate stock of said city, in the manner herein provided; and upon the payment and redemption of any portion of said bonded debt, the certificates thereof shall be canceled by said commissioners.

The "consolidated stock" of the mayor, aldermen and commonalty of the city of New York, issued pursuant to the provisions of section 176 of chapter 410 of the laws of 1882, after fully providing for the preferred bonds and stocks of said city, as in the preceding section specified, shall form a charge upon the said "sinking fund for the redemption of the city debt," and any part of the bonded debt of said corporation falling due and not exchanged for or redeemed from the proceeds of said consolidated stock as in said section provided, may be paid from said sinking fund for the redemption of the said city debt, provided such payment shall not in any way impair the preferred claims thereon as in the preceding section specified, and provided also, the commissioners of the sinking fund shall deem it to be for the best interests of the city that such payment shall be so made.

Preferred bonds and stocks to be paid from the sinking fund for the redemption of the city debt.

Sec. 214. From the said sinking fund for the redemption of the city debt shall be paid and redeemed all preferred bonds and stocks of the mayor, aldermen and commonalty of the city of New York, as by this title authorized.

Disposition of certain assessments for local improvements.

Sec. 215. The assessments made for local improvements prior to the ninth day of June, eighteen hundred and eighty, by the corporation known as the mayor, aldermen and commonalty of the city of New York, including assessments for improvements contracted for or authorized by said corporation, prior to said date, shall, when collected, be paid over to the commissioners of the sinking fund, and applied by them in accordance with law.

Alteration of rates prohibited.

Sec. 216. It shall not be lawful for the city of New York to make or cause to be made, any alteration of rates or charges affecting any item or source of the revenues of any of the sinking funds of said city, or of the general fund which may tend to a diminution of the receipts from such source of revenue, or either of them, and all the revenues of said corporation not by law otherwise specifically appropriated, shall, when received into the city treasury, be credited to the general fund.

Applications for leases for public purposes. Statement by controller.

Sec. 217. All applications to lease any real estate for the purposes of the city of New York, including the premises required in accordance with law for armories and drill rooms and places of deposit for the safe keeping of arms, uniforms, equipments, accoutrements, and camp equipage of the national guard, must be presented to and passed upon by the commissioners of the sinking fund of said city. It shall be the duty of the controller, after due inquiry to be made by him, to present to the said commissioners a statement in writing of the facts relating to any real estate proposed to be leased, the purposes for which such lease is required by the city, with his opinion, and the reasons therefor, as to the fair and reasonable rent of said premises. The said commissioners, upon such report and upon such further inquiry as they in their discretion may make, may authorize a lease of such premises as shall be specified in their resolution, at the rent therein set forth, for a period not exceeding five years, but such lease shall not be authorized except at a fair and reasonable rent, and unless the commissioners are satisfied and shall so express that it would be for the interests of the city that a lease of the premises for the purposes specified should be made. Without the consent of the said commissioners the premises leased shall not be used during the period of the lease for purposes other than specified in said resolution. If the city shall, prior to the making of the lease, have entered upon the possession of the property, the lease may be made to commence as of the date when the occupation commenced.

Cession of certain lands to federal government to improve Harlem river.

Sec. 218. The commissioners of the sinking fund, or the municipal assembly, are authorized to cede and convey to the United States, upon such terms and for such consideration as may be agreed upon by and between said commissioners of the sinking fund, or said municipal assembly and the United States, all the estate, right, title and interest of the city of New York in and to any part of the land required for the channel to connect the waters of the Harlem river with the Hudson river, in accordance with the plans for the improvement of the Harlem river, prepared under the direction of the secretary of war. Whenever any part of said land shall have been ceded by said commissioners of the sinking fund, or said municipal assembly, pursuant to the authority hereby given, it shall be the duty of said commissioners of the sinking fund or a majority of them, to give a certificate under their hands, that the same has been ceded, pursuant to the provisions of this section, and upon the production of such certificate and upon proof of due compliance, on the part of the United States, with the terms of cession, it shall be the duty of the mayor of said city and the city clerk, in the name and on behalf of the city of New York, to execute a proper conveyance of such lands under their hands and the seal of said city.

Certain duties of commissioners relative to docks, piers, etc.

Sec. 219. The commissioners of the sinking fund shall perform the duties and possess the powers with reference to docks, piers and slips, stated in chapter XVI of this act.

Sale of public lands at auction.

Sec. 220. The commissioners of the sinking fund are authorized upon the application of the board of education duly authorized and certified, to sell at public auction at such times and on such terms as they may deem most advantageous for the public interest, any land or lands and the buildings thereon, owned by the city of New York, occupied or reserved for school purposes, and no longer required therefor, provided, however, that no property shall be disposed of for a less sum than the same may be appraised by the commissioners of the sinking fund, or a majority of them, at a meeting to be held and on an appraisement made within two months prior to the date of the sale; and at least thirty days' notice of such sale, including a description of the property to be sold, shall be published in the City Record. The money received in payment for the said lands and buildings shall be paid into the sinking fund for the redemption of the city debt, if the property thus sold was acquired prior to January 1, 1898; and if acquired subsequent thereto, into the sinking fund of the city of New York.

TITLE 5.

APPROPRIATIONS AND THE BOARD OF ESTIMATE AND APPORTIONMENT.

How constituted; duties; the annual budget.

Sec. 226. The mayor, controller, corporation counsel, president of the council and the president of the department of taxes and assessments shall constitute the board of estimate and apportionment. The first meeting of said board in every year shall be called by notice from the mayor, personally served upon the members of said board. Subsequent meetings shall be called as the said board shall direct. At such meetings the mayor shall preside, and one of the number shall act as secretary. The said board shall annually, between the first day of October and the first day of November, meet, and by the affirmative vote of all the members make a budget of the amounts estimated to be required to pay the expenses of conducting the public business of the city of New York as constituted by this act, for the then next ensuing year. Such budget shall be prepared in such detail as to the aggregate sum and the items thereof allowed to each department, bureau, office, board of commission as the said board of estimate and apportionment shall deem advisable. In order to enable said board to make such budget, the heads of departments, bureaus, offices, boards and commissions shall, at least 30 days before the said budget is hereby required to be made, send to the board of estimate and apportionment an estimate in writing, herein called a departmental estimate, of

the amount of expenditure, specifying in detail the objects thereof, required in their respective departments, bureaus, offices, boards, and commmissions, including a statement of each of the salaries of their officers, clerks, employes and subordinates. Duplicates of these departmental estimates and statements shall be sent at the same time to the municipal assembly. Before finally determining upon the budget the board of estimate and apportionment shall fix such sufficient time or times as may be necessary to allow the taxpayers of said city to be heard in regard thereto, and the said board shall attend at the time or times so appointed for such hearing. After such budget is made by the board of estimate and apportionment it shall be signed by all the members thereof, and submitted by said board within ten days to the municipal assembly, whereupon a special joint meeting of the two houses constituting the municipal assembly shall be called to consider such budget, and the same shall simultaneously be published in the City Record. The president of the council shall preside at such joint meeting, and it shall be the duty of said two houses to consider and investigate carefully the said budget; but such consideration and investigation shall not continue beyond fifteen days. The municipal assembly, by a majority vote by all the members elected thereto, may reduce the said several amounts fixed by the board of estimate and apportionment, except such amounts as are now or may hereafter be fixed by law, and except such amounts as may be inserted by the said board of estimate and apportionment for the payment of state taxes and payment of interest and principal of the city debt, but the municipal assembly may not increase such amounts nor insert any new items. Such action of the municipal assembly on reducing any item or amount fixed by the board of estimate and apportionment shall be subject to the veto power of the mayor as elsewhere provided in this act, and unless such veto is overridden by a five-sixths vote of the joint assembly the item or amount as fixed by the board of estimate and apportionment shall stand as part of the budget. After the final estimate is made in accordance herewith, it shall be signed by the president of the council and the members of the board of estimate and apportionment, and when so signed the said several sums shall be and become appropriated to the several purposes and departments therein named. The said estimate shall be filed in the office of the controller and published in the City Record and corporation newspapers.

Payment of city's obligations to be provided for.

Sec. 227. It shall be the duty of the board of estimate and apportionment, from time to time, to provide for the payment of the interest and principal of the bonds and other obligations of the city, or for which the city is liable, and also to provide for the payment to the commissioners of the sinking fund of any sums directed by special laws to be paid to said commissioners on account of such bonds or obligations and in anticipation of their maturity, and to provide for the raising of the money therefor, in accordance with such special laws and the laws under which such bonds and obligations were issued or created.

Duties when accumulations in sinking fund are insufficient.

Sec. 228. Whenever and as often as the commissioners of the sinking fund shall certify to the board of estimate and apportionment that the accumulations in any sinking fund will not be sufficient to meet the payment of any bonds or stocks falling due in the next following calendar year redeemable therefrom, it shall be the duty of said board of estimate and apportionment, and it is hereby required, to include in the annual budget for such year, to be raised by tax on the estates, real and personal, in said city, subject to taxation, such an amount to be applied to the payment of said bonds or stocks as shall be certified by said commissioners, and the amount so included in said estimate shall be paid into said sinking fund and applied as in this section specified.

Certain city bonds and stocks. Annual provisions to meet payment of.

Sec. 229. For the payment of all bonds and stocks of the mayor, aldermen and commonalty of the city of New York issued after June third, one thousand eight hundred and seventy-eight, and for the payment of all bonds and stocks hereafter issued by the city of New York, as hereby constituted, and for which no provision for the payment thereof otherwise than from taxation is made, except revenue bonds issued in anticipation of the collection of taxes, there shall annually be set apart or paid over to the commissioners of the sinking fund, as hereinafter directed, and invested by them in the manner provided by law, a sum sufficient with the accumulation of interest thereon to meet and discharge the amount of said bonds or stocks by the time the same shall be payable, as the same shall be estimated and certified by the controller. The said annual sum so to be set apart or paid over and invested, except so far as it relates to bonds and stocks issued on or after January first, one thousand eight hundred and ninety-eight, and bonds issued to provide for the supply of water, shall, until other provision therefor may be hereafter made by law, be set apart out of the surplus income, revenues and accumulations of the sinking fund for the redemption of the city debt as now established by law, after fully providing for the payment of the stocks and bonds of said city now outstanding, and which by sections 212 and 213 of this act are declared to be and are made preferred claims upon said sinking fund, and also for the payment of such other bonds and stocks of said city as by said section 213 of this act are authorized to be paid from said sinking fund. Whenever and as often as the commissioners of the sinking fund shall certify to the board of estimate and apportionment that the said surplus revenues of said sinking fund will, in the opinion of said commissioners, be less than the amount by this section required to be set apart or paid over to said commissioners for the purposes aforesaid, and certifying the amount of such deficiency, it shall be the duty of said board of estimate and apportionment and the municipal assembly to include in the annual budget for the year next ensuing to be raised by tax on the estates real and personal in said city subject to taxation, the amount of the deficiency certified as aforesaid, and this amount so raised by tax shall be paid to the commissioners of the sinking fund on the first day of November of the year in which the same shall be levied.

Items to be included in annual estimate.

Sec. 230. The board of estimate and apportionment shall annually include in its final estimate the following sums, which shall annually be raised and appropriated:

First—Such sum in any year, as shall be included in the estimate of the department of highways, to be expended in repaving or resurfacing such streets, roads, avenues, and public places in the said city as shall be certified to the municipal assembly by the commissioner of highways as required to be repaved for the safety, health, or convenience of the public, and as said assembly shall by ordinance or resolution direct.

Second—Such sum as said board may deem necessary in the interest of the city, to be expended by the commissioner of water supply, when thereto authorized by the municipal assembly, according to law, in extending and enlarging the distribution of water through the city.

Third—All necessary sum or sums of money for the purpose of paying the expense incurred by any coroner, in accordance with law, in employing scientific experts, engineers and toxicologists.

Fourth—The amount fixed by said board for clerk hire and contingent and incidental expenses of the office of the commissioners of jurors, but not exceeding the amount fixed by law.

Fifth—A sum not exceeding eight thousand dollars to be paid to the trustees of the Seventh regiment armory building, as an equivalent and in lieu of the rental of an armory for said regiment, to be applied to the preservation, maintenance and improvement of said armory building, as provided in chapter 518 of the laws of 1893, said sum to be paid in the month of January in each year.

Sixth—The sum or sums authorized to be expended in accordance with law for the purchasing and leasing of lands and the erection or leasing of buildings for armories and drill rooms.

Seventh—The amount necessary for the maintenance of the buildings, instruments and equipments of

1. The meteorological and astronomical observatory.
2. The American Museum of Natural History, not exceeding ninety-five thousand dollars.
3. The Metropolitan Museum of Art, not exceeding ninety-five thousand dollars.

Eighth—Such sum, not exceeding seventy-five thousand dollars, as is included in the departmental estimates submitted to it by the department of public charities, to be applied to the relief of poor adult blind persons.

Ninth—The sum of ten thousand dollars to the credit of the department of health, to be known as the tenement house fund, to be expended by the board of health.

Tenth—Such sum as is necessary to pay the expenses of the registration and revision of registration required by law, and of all elections held in said city during the year.

Eleventh—Such sum as may be necessary to pay the compensation payable according to law to justices of the supreme court from judicial departments, other than the first judicial district, who hold court in the first judicial department.

Twelfth—Such sum as may be necessary to pay the salaries of county officers within the counties of New York, Kings and Richmond, and likewise all other expenses within said counties and each of them which are county as distinguished from city charges and expenses.

Thirteenth—The amount necessary for the support of the night medical service; but in no case shall the sum so appropriated exceed three thousand ollars for any one year, unless otherwise provided by said board and the municipal assembly.

Fourteenth—To pay the proportion of expense chargeable to the city for the building, maintenance and repair of the public bridges, which are now built, or which may hereafter be built, between the city of New York, as

hitherto existing, and the adjacent municipal corporations.

Fifteenth—The amount necessary to pay the expense of procuring and preparing surveys and maps for commissioners of estimate and assessments, appointed in any proceeding to open any street, avenue or public park or place.

Sixteenth—The sum necessary to pay the salaries of the janitors of the district courts.

Seventeenth—Such sum as is necessary for defraying the expenses incurred in carrying out the provisions of sections 1,093, 1,094 and 1,095 of chapter 410 of the laws of 1882.

Eighteenth—Such sum as may be necessary to pay the expenses of the magistrates' courts and the board of city magistrates incurred in accordance with law.

Nineteenth—Such sum as may be necessary to provide for the compilation and publication of the registry of voters.

Twentieth—Such sum as may be required by the trustees of the College of the City of New York, pursuant to section 1,131 of this act.

Twenty-first—Such sum as may be required by the trustees of the normal college, in the city of New York, pursuant to the provisions of section 1,142 of this act.

Twenty-second—The sums necessary, in the discretion of said board, to make the following described payments, namely:

1. To the American Female Guardian society for the maintenance of each girl under the age of fourteen and each boy under the age of ten years, committed to such society by any magistrate in the city of New York, the sum of $2 per week for each and every week until such child is discharged or removed from the institution of such society. And also the sum of $25,000, to be applied to the support of the industrial schools and other charitable work of the said society.

2. To the New York Society for the Prevention of Cruelty to Children the sum of $30,000 for the uses and purposes of said society.

3. To the New York Society for the Relief of the Ruptured and Crippled, the sum of $150 for the support of every crippled child received and retained in their hospital for one year, and a proportionate sum for a shorter period.

4. To the New York Infirmary for Women and Children, $25 for each homeless or needy mother who received care and attendance in lying-in wards of the New York infirmary for women and children, for such care and obstetric attendance, and the further sum of $18 per month, and proportionately for any fraction of a month, for each mother thus domiciled and attended at the birth of her child, and for each homeless or needy mother with a nursing infant who resides at said infirmary at the request of or by permission of its officers, and wet nurses her own infant, provided such residence shall exceed the period of two months, but the said monthly allowance of $18 shall not be paid for a longer period than one year for any mother so remaining continuously. And to the New York medical college and hospital for women, $25 for each needy mother who has received care and obstetric attendance at her home or in the lying-in wards of the said hospital, for such care and obstetric attendance, and the further sum of $18 per month and proportionately for each fraction of a month for each mother attended at the birth of her child and domiciled at such hospital, but not for a longer period than one year, and also for each homeless or needy mother with a nursing infant who resides at said hospital at the request of or by permission of its officers and wet nurses her own infant, provided such residence shall exceed the period of two months. But such sums to the New York medical college and hospital for women shall not exceed $8,000 in the aggregate in any one year.

5. To the children's fold of the city of New York, the sum of $2 per week for each and every orphan, half orphan and destitute child received and supported by said institution, the expense of whose support is not paid by private parties.

6. To the New York Institution for the Blind, $50 for each state pupil sent to and received in said institution from said city, whose parents or guardians shall, in the opinion of the superintendent of public instruction, be unable to furnish them with suitable clothing, to be by it applied to furnishing such pupils with suitable clothing while in said institution.

7. To the Children's Aid society, the sum of $10,000 for the uses and purposes of said society. And also the sum of $30,000 to be applied to the care and education in the industrial schools of said city, of destitute children not attending the common schools in the city of New York. And also the sum of $30,000 to be applied to the support of the boys' and girls' lodging houses of the said society. To St. John's guild of the city of New York the sum of $30,000, to be applied to the maintenance and operation of its hospitals, to the support of its other charitable work and to the general uses and purposes of said society, and to the Sanitarium for Hebrew Children in the city of New York, the sum of $5,000 to be applied to the support of its charitable work.

8. To the foundling asylum of the Sisters of Charity and to the Babies' hospital of the city of New York, respectively, at the rate of 38 cents per day for each and every foundling or infant received and maintained by them. And also for each and every homeless and needy mother with a nursing infant, who shall reside at the asylum, or at said hospital, by request of its officers, and nurse her own infant, the sum of $18 per month. To the babies' wards of the Post-Graduate hospital in the city of New York, at the rate of 38 cents per day for each and every infant received and cared for therein.

9. To the Nursery and Child's hospital, the sum of five dollars per week for every destitute woman admitted into its lying-in wards, according to the time of the said woman's continuing under the care of the said institution, and the further sum of ten dollars per month for each and every child born in the institution or supported and maintained by said institution, whenever it may be necessary or expedient to place said child in the country, or for want of room in the institution to find accommodation for it elsewhere; and also the sum of ten dollars per month for all children received and retained in the Nursery and Child's hospital, in the city of New York, and in like proportion for any fraction of a year for each and every destitute child which may be supported and maintained in said institution. To the New York Polyclinic Medical school and hospital, for board, nursing and medical or surgical aid and attendance, one dollar per day for each needy and charity patient who occupies a bed in said hospital and who receives such care, support and maintenance; such payments not to exceed in the aggregate thirty thousand dollars per annum. To the New York Homeopathic college and hospital, for board, nursing and medical or surgical aid and attendance, one dollar per day for each needy and charity patient who occupies a bed in the Flower Surgical hospital, belonging to said New York Homeopathic college and hospital, and who receives such care, support and maintenance; such payment not to exceed in the aggregate twelve thousand dollars per annum.

10. To the New York Infant asylum, a sum of money at the rate of thirty-eight cents per day, in monthly payments, for each and every child received and maintained by said asylum; a further sum of twenty-five dollars for each homeless or needy mother who receives care and attendance in the lying-in wards of the asylum; the further sum of eighteen dollars per month, and proportionately for any fraction of a month, for each homeless or needy mother who is domiciled in the asylum and attended at the birth of her child, and resides at the asylum by the request of its officers, and wet nurses her own infant; and for each other homeless or needy mother with a nursing infant who resides at the asylum by the request of its officers and wet nurses her own infant; provided, however, that in each case such residence must exceed the period of two months, and that said monthly allowance shall not be paid for a longer period than for one year for any mother so remaining.

11. To the Shepherd's fold of the Protestant Episcopal church in the state of New York, the sum of five thousand dollars, to be applied to the purposes and objects of said corporation.

12. To the New York Catholic Protectory, yearly, the sum of one hundred and ten dollars per capita, on the average number of persons annually maintained in its institutions; the average number of persons thus maintained shall be ascertained by the examination and testimony, under oath, of the president or secretary of said society.

13. To the Hebrew Benevolent society of the city of New York, one hundred and ten dollars per annum and proportionately for any fraction of a year, and to the Hebrew Sheltering Guardian society of New York, one hundred and four dollars per annum and proportionately for any fraction of a year for each orphan, half orphan and indigent child committed or intrusted to its care in pursuance of the provisions of law.

14. To the New York Juvenile asylum, one hundred and ten dollars per annum, and proportionately for any fraction of a year, for each child, which, by virtue and in pursuance of the provisions of chapter three hundred and thirty-two of the laws of eighteen hundred and fifty-one, as amended by laws of eighteen hundred and fifty-eight, chapter forty-three, laws of eighteen hundred and sixty-three, chapter ninety-four, and laws of eighteen hundred and sixty-six, chapter two hundred and forty-five, shall be intrusted or committed to the said asylum and shall be supported and instructed therein.

15. To the Roman Catholic House of the Good Shepherd, monthly payments at the rate of one hundred and ten dollars per annum for each female, between the ages of fourteen and twenty-one, committed to it by any magistrate in accordance with chapter four hundred and nine of the laws of eighteen hundred and sixty-seven.

16. To the Magdalen Female Benevolent Asylum and Home for Fallen Women, monthly payments at the rate of one hundred and ten dollars per annum for each female, between the ages of fourteen and twenty-one years, committed to it by any magistrate, in accordance with said last mentioned law.

17. To the Protestant Episcopal House of Mercy, monthly payments at the rate of one hundred and ten dollars per annum for each female between the ages of fourteen and twenty-one years, committed to it by any magistrate in accordance with said last mentioned law.

18. To the Five Points House of Industry,

the sum of fifty-two dollars per year for each and every orphan, half orphan and destitute child, not exceeding two hundred children in any one year, received and supported by said institution for each year, the expense of whose support is not paid by private parties, and in the same proportion for the part of a year.

19. To the Association for Befriending Children and Young Girls, a per capita allowance of one dollar a week for each female by it rescued, supported, instructed and trained to useful employment.

20. To the Peabody Home for Aged and Indigent Women, the sum of one hundred and fifty dollars per annum for each and every woman therein over sixty-five years of age received and supported by said institution, not exceeding, however, the sum of five thousand dollars in any one year, and to the Sloan Maternity hospital in the city of New York, the sum of five dollars per week for every destitue woman admitted into its lying-in ward, according to the time of the said woman continuing under the care of the said institution, and the further sum of ten dollars per month for each and every child born in the institution or supported and maintained by said institution, but such sums shall not exceed eight thousand dollars in any one year. And to the New York Female asylum for lying-in women, twenty-five dollars for each homeless and needy mother who has received care and attention in the lying-in ward of the asylum, for such care and obstetric attendance, but such sums shall not exceed eight thousand dollars in any one year.

21. To the Mothers' and Babies' hospital, fifteen dollars for each homeless and needy mother who has received care and attention in the lying-in ward of the hospital, for such care and obstetric attendance, not to exceed three hundred patients in any one year.

22. Such other sum or sums as are, or may be by law directed to be raised and paid for charitable purposes or to private or incorporated societies, associations, asylums, hospitals, corporations, institutions, protectories, home or schools.

23. The board of estimate and apportionment are hereby authorized in their discretion to include in their annual statements and estimates the following specified sums of money for the respective purposes herein stated, namely: Four thousand dollars to be paid to the Brooklyn hospital (formerly City hospital); four thousand dollars to be paid to the Long Island College hospital; four thousand dollars to be paid to the Brooklyn Homeopathic hospital; fifteen hundred dollars to be paid to the Brooklyn Central dispensary; fifteen hundred dollars to be paid to the Brooklyn City dispensary; fifteen hundred dollars to be paid to the Brooklyn Eclectic dispensary; fifteen hundred dollars to be paid to the Brooklyn Homeopathic dispensary; five thousand dollars to be paid to the Brooklyn Eastern District dispensary and hospital (formerly the Williamsburgh dispensary); fifteen hundred dollars to be paid to the Long Island College dispensary; fifteen hundred dollars to be paid to the Gates avenue Homeopathic dispensary; four thousand dollars to be paid to the Brooklyn Nursery and Infants' hospital; fifteen hundred dollars to be paid to the Brooklyn Eastern District Homeopathic dispensary (formerly the Williamsburgh Homeopathic dispensary); twenty-five hundred dollars to be paid to the Brooklyn maternity (formerly Brooklyn lying-in asylum); twenty-five hundred dollars to be paid to the Eye and Ear hospital of the city of Brooklyn; one thousand dollars to be paid to the Southern dispensary and hospital; fifteen hundred dollars to be paid to the Orthopedic dispensary; four thousand dollars to be paid to the Saint Peter's hospital; fifteen hundred dollars to be paid to the Saint Peter's dispensary; two thousand dollars to be paid to the Atlantic avenue dispensary; one thousand dollars to be paid to the Saint Mary's dispensary; two thousand dollars to be paid to the Brooklyn Diet dispensary; fifteen hundred dollars to be paid to the Saint Catharine's dispensary; four thousand dollars to be paid to the Saint Catharine's hospital; one thousand dollars to be paid to the Helping Hand society of Brooklyn; one thousand dollars to be paid to the Sheltering Arms nursery of Brooklyn; four thousand dollars to be paid to the Brooklyn Home for Consumptives; four thousand dollars to be paid to the Memorial hospital for Women and Children; four thousand dollars to be paid to the Saint Mary's general hospital of the city of Brooklyn; fifteen hundred dollars to be paid to the Central Homeopathic dispensary; fifteen hundred dollars to be paid to the Memorial dispensary; fifteen hundred dollars to be paid to the Bushwick and East Brooklyn dispensary; fifteen hundred dollars to be paid to the Dispensary of the College of Physicians and Surgeons of Saint Mary's hospital of the city of Brooklyn; four thousand dollars to be paid to the Methodist Episcopal hospital of the city of Brooklyn; two thousand dollars to be paid to the Saint Mary's Female hospital; fifteen hundred dollars to be paid to the Lutheran Hospital association of the city of New York and vicinity; four thousand dollars to be paid to the Brooklyn Throat hospital; two thousand dollars to be paid to the Bedford dispensary and hospital; six thousand dollars in the statement and estimate in the year eighteen hundred and ninety-six and four thousand dollars in each year thereafter to be paid to the Saint Martha's sanitarium and dispensary; three thousand dollars to be paid to the Central Throat hospital and Polyclinic dispensary; three thousand dollars to be paid to the Long Island Throat hospital and Eye infirmary (formerly the Long Island Throat and Lung hospital and People's dispensary association); four thousand dollars to be paid to the Norwegian Lutheran Deaconesses' home and hospital; two thousand and five hundred dollars to be paid to the Brooklyn Home for Aged Colored People, three thousand dollars to be paid to the St. Mary's Maternity and Infants' home; two thousand dollars to be paid the Memorial Training School for Nurses; four thousand dollars to be paid to the Church Charity Foundation of Long Island for its hospital; twenty-five hundred dollars to be paid to the Home of St. Giles the Cripple; three thousand dollars to be paid to the Bushwick hospital; four thousand dollars to be paid to the Brooklyn Society for the Prevention of Cruelty to Children; two thousand dollars to be paid to the Brooklyn Training school and Home for Young Girls; fifteen hundred dollars to be paid to the dispensary of the Methodist Episcopal hospital; twenty-five hundred dollars to be paid to the Low maternity; fifteen hundred dollars to be paid to the Brooklyn Hospital dispensary; two thousand dollars to be paid to the Society for the Aid of Friendless Women and Children; two thousand dollars to be paid to the Stone maternity of Brooklyn; fifteen hundred dollars to be paid to St. Phebe's mission; fifteen hundred dollars to be paid to the Orphan Asylum Society of the City of Brooklyn; four thousand dollars in the statement and estimate in the year eighteen hundred and ninety-six, and two thousand five hundred dollars in each year thereafter to be paid to the Industrial Home for the Blind; one thousand dollars to be paid to the Homeopathic Hospital association of Brooklyn; fifteen hundred dollars to be paid to the Brooklyn Industrial School association and Home for Destitute Children; fifteen hundred dollars to be paid to the Industrial Home School association of Brooklyn, eastern district; twenty-five hundred dollars to be paid to the Maternity of the Long Island College hospital; fifteen hundred dollars to be paid to the Twenty-sixth Ward Homeopathic dispensary; such several sums of money to be paid to the several institutions in consideration of their contracting to render and rendering medical and surgical aid and treatment to the poor of the county of Kings who may apply to them therefor; such contract to be in writing, executed on behalf of the city by the said mayor and controller, and also by the executive officers of said associations respectively, and to be approved by the counsel to the corporation of said city, to be filed annually on or before the thirty-first day of May, in the office of the clerk of said city.

24. Any other sum or sums which may heretofore have been duly authorized by law to be paid by tax within the city of New York, or any part thereof, as constituted by this act, for the education and support of the blind, the deaf and dumb and juvenile delinquents, and for the care, support, maintenance and secular education of inmates of orphan asylums, protectories, homes for dependent children or correctional institutions, or to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control for care, support and maintenance, as in such law specified. The final estimate shall specify each institution by its corporate name and the sum to be paid thereto, with a reference to the laws authorizing the appropriation; and the controller is authorized to pay the sum to such institution upon its appearing to his satisfaction in such manner as he shall prescribe that the expenditure thereof by the institution is lawful and proper.

Board of estimate to audit charges against city for costs, etc.

Sec. 231. The board of estimate and apportionment is hereby authorized to audit and allow, as charges against the city, the reasonable costs, counsel fees and expenses paid or incurred, or which shall hereafter be paid or incurred by any commissioner, city magistrate or police justice who shall have been a successful party in any proceedings or trial to remove him from office, or who shall bring or defend any action or proceeding, in which the question as to his title to office is in any way presented, or involved, or in which it is sought to convict him, or to review or prohibit any such removal or to obtain possession of his office, or by any commissioner for the proper presentation and justification of his official conduct before any body or tribunal lawfully investigating the same, and not officially recommending his removal from office. The board of estimate and apportionment and the municipal assembly are hereby authorized and directed to cause to be included in the budget for the year following such audit, an amount sufficient to pay the revenue bonds directed to be issued by the said controller pursuant to section 188 of this act, with all interest due or to become due thereon.

Deficiences: how provided for.

Sec. 232. The amount raised by assessment, pursuant to the provisions of chapter 191 of the laws of 1880, shall be collected and paid into the city treasury, and applied toward the payment of revenue bonds issued under said chapter. If any deficiency shall arise from

any cause, and a sufficient amount shall not be realized from such assessment to pay $50,000 of the revenue bonds issued pursuant to said chapter, with the interest thereon, such deficiency shall be provided for by the board of estimate and apportionment and the municipal assembly, by including the same in the annual appropriation first made, after the amount of such deficiency, if any, shall be ascertained.

Salaries of certain officers.

Sec. 233. The salaries of all officers paid from the city treasury not embraced in any department shall be fixed by the municipal assembly, and the board of estimate and apportionment, unless otherwise provided by law or by this act.

List of persons and salaries not within a department.

Sec. 234. The board of estimate and apportionment shall file with the final estimate during the month of December in each year a schedule of the names of all persons not within a department employed under the city government, the designation of their offices and employment, respectively, and the salaries and compensation fixed for each, which said schedule shall be published in the City Record.

Issue of certain stock and bonds authorized; transfers of appropriations.

Sec. 235. The board of estimate and apportionment may at any time, as occasion may require, by the affirmative vote of three members, authorize the issue of any stocks or bonds for the purpose of withdrawing, or taking up at maturity any stocks or bonds outstanding; but the said bonds or their proceeds shall be applied exclusively to the payment, purchase, and extinction of such maturing bonds in such manner that the aggregate of the stocks or bonds of said city outstanding shall not be increased thereby for a longer period than is necessary in effecting said change. The said board of estimate and apportionment may, from time to time, on the application of the head of any department, authorize the transfer, from one bureau or purpose to another in the same department, of any sum theretofore appropriated for the purpose of such department or bureau.

Appropriation for prevention of contagious diseases.

Sec. 236. For the prevention of dangers from contagious or infectious disease found to exist in any part of the city, or for the care of persons exposed to danger from contagious or infectious diseases, the municipal assembly and the board of estimate and apportionment may appropriate to the use of the health department money in excess of the annual estimate and appropriation for any year to the amount that shall be declared necessary for such purpose by resolution of the board of health; not, however, to exceed, in the aggregate, the sum of eighty thousand dollars in excess of such annual appropriation, and if any sum or sums of money shall be so appropriated by said municipal assembly and said board of estimate and apportionment in any year prior to the date of the certificate of the controller to the municipal assembly of the aggregate amount of the budget for such year, the amount thereof shall be added to such final estimate, and included in the tax levy in such year.

Board of estimate may transfer excess of appropriations.

Sec. 237. The board of estimate and apportionment shall have the power at any time to transfer any appropriation for any year which may be found, by the head of the department for which such appropriation shall have been made, to be in excess of the amount required or deemed to be necessary for the purposes or objects thereof, to such other purposes or objects for which the appropriations in such year are insufficient, or such as may require the same. But nothing in the power thus conferred shall authorize the transfer by said board of appropriation made for any object or purpose, in one year, to any purpose or object, whether an appropriation has been made therefor or otherwise, in any subsequent year. And any balance of appropriations remaining unexpended at the close of any fiscal year, after allowing sufficient to satisfy all claims payable therefrom, and also any balance to the credit of any account of moneys which have been or may hereafter be paid into the treasury of the city, under existing laws, appropriated or authorized to be expended for any specific purpose, and which the said board of estimate and apportionment may determine not to be necessary, or to be in excess of the amount required therefor, may, at any time, but not less than sixty days after the expiration of the year for which such appropriations are made, or sixty days after the expiration of the year during which the moneys aforesaid were paid into the treasury of the city, after allowing sufficient to satisfy all claims payable from such appropriations, or which the controller shall certify, should be paid from said moneys paid into the treasury, as aforesaid, be transferred by the controller, with the approval of the said board of estimate and apportionment, to the general fund of the city, and applied to the reduction of taxation. The approval by the board of estimate and apportionment of the certificate of the controller, as aforesaid, shall be an appropriation of the amounts therein stated to the object or purposes in said certificate specified.

Appropriations out of excise moneys to Home for Girls.

Sec. 238. There may be paid annually, out of the excise moneys of the City of New York, to the Home for Fallen and Friendless Girls, in said city, the sum of $150, for the support of every fallen and friendless girl received and supported by said corporation in their Home for Fallen and Friendless Girls for the year for which such payment shall be made, and a proportional sum for a shorter period in the same year.

Street sweeping contracts to be approved by board.

Sec. 239. The terms and conditions of all contracts for streets sweeping and cleaning, or for the collection of ashes and garbage, shall, before they are entered into, be approved by the board of estimate and apportionment.

Excise moneys: how appropriated.

Sec. 240. Said board of estimate and apportionment is authorized, from time to time, in sums according to its discretion, by resolution of said board, to appropriate from excise moneys obtained from either local or state boards or officers, for taxes or licenses for the sale of intoxicating liquors, to such benevolent or charitable institutions in said city which shall gratuitously aid, support or assist the poor thereof, as may seem to said board deserving or proper, but no such resolutions shall be valid unless adopted by a majority vote of all the members of said board, and the controller shall draw his warrants in favor of such institutions respectively mentioned in such resolutions, according to the tenor thereof, and the chamberlain shall pay such warrants out of the said moneys received for licenses. The term "poor," as used in this section, shall only include persons who would otherwise become a charge upon said city, as foundlings, orphans or such prostituted or fallen women or juvenile delinquents as may be committed to or cared for gratuitously, in rr by any reformatory institution, protectory or juvenile asylum, persons who are supported, relieved or cared for gratuitously, in or by any charitable institution for the care or relief of the ruptured or crippled, the cure of hip or spinal diseases, the sick or the destitute, friendless or infirm, including children of volunteers who died in the late civil war and the care and instruction of idiots, the deaf and dumb, the blind and the insane. No payments shall be made in pursuance of this section, except as a per capita allowance for the poor and destitute persons actually supported, treated, cared for or educated in the institutions referred to in this section, except in the case of the American Female Guardian society and Home for the Friendless, the Children's Aid society and the Shepherd's Fold of the Protestant Episcopal church, which shall severally receive only the same amounts as provided by other provisions of law. The said board of estimate and apportionment is also authorized, from time to time, and in sums according to its discretion, to appropriate, by resolution of said board, all moneys derived from penalties and fines, recovered, pursuant to sections 1,473, 1,481 and 1,482 of this act, and all moneys from licenses, provided for in chapter 22, title 2 of this act, to whatever benevolent or charitable institutions may seem to such board deserving or proper, but no such resolution shall be valid unless adopted by a vote of a majority of said board, and the controller of said city is hereby authorized and directed to draw his warrants in favor of the corporations, societies or charitable institutions, respectively mentioned in such resolution according to the tenor thereof, and the chamberlain of said city shall pay such warrants out of the said moneys received for such penalties, fines and licenses.

Appropriations for contesting office to be made for prevailing party only.

Sec. 241. No appropriation or payment for the contesting of the office of mayor, or any seat in the municipal assembly, or office in any department, or the office of any officer whose salary is paid from the city treasury, shall be made to any but the prevailing party. Nor shall any such appropriations or payment be made to such prevailing party except upon the written certificate of the chief officer of the law department, and of the presiding justice of the appellate division of the first department of the supreme court, certifying who is such prevailing party, and the value of the services rendered in the case. In case an officer or clerk is ordered to be examined, in pursuance of law, the corporation counsel shall assign some one from his department as counsel for the officer or clerk making the application.

TITLE 6.

LEVYING TAXES.

Controller's duties.

Sec. 247. It shall be the duty of the controller of said the city of New York to prepare and submit to the municipal assembly, at least four weeks before their annual meeting, for the purpose of imposing the annual taxes, a statement, setting forth the amounts by law authorized to be raised by

tax in that year, on account of the corporation of the city of New York, as hereby constituted, or for city purposes within said city, and also an estimate of the probable amounts of receipts by the city treasury during the then current year, from all the sources of revenue of said general fund, including surplus revenues from the sinking fund, available in accordance with law, other than the surplus revenues of the sinking fund, for the payment of the city debt, and the said municipal assembly are hereby authorized and directed to deduct the total amount of such estimated receipts from the aggregate amount of all the various sums which, by law, they are required to order, and cause to be raised by tax in said year, for the purposes aforesaid, and to cause to be raised, by tax only, the balance of said aggregate amount, after making such deduction.

Deficiencies; limits of; levies for.

Sec. 248. It shall be the duty of the municipal assembly to include, in any and every ordinance or resolution passed by them, imposing and levying taxes for any purpose or purposes authorized by law, such sum, in addition to the aggregate amount required for such purposes, as they shall deem necessary, not exceeding three per cent. of said aggregate amount, to provide for deficiencies in the actual product of the amount imposed and levied therefor.

Aggregate amount apportioned to be certified to municipal assembly and raised.

Sec. 249. The aggregate amount estimated by the municipal assembly and the board of estimate and apportionment, in the annual budget, shall be certified by the controller to the municipal assembly; and it shall be the duty of said municipal assembly, in joint session of both houses, and they are hereby empowered and directed annually to cause to be raised, according to law, and collected by tax upon the estates, real and personal, subject to taxation within the city of New York, the amount so certified, as aforesaid.

CHAPTER VII.

LAW DEPARTMENT.

Corporation counsel to be the head of the law department; duties, salary.

Sec. 255. There shall be a law department of the city of New York, the head whereof shall be called the corporation counsel, who shall be the attorney and counsel for the city of New York, the mayor, the municipal assembly and each and every officer, board and department of said city. The salary of the corporation counsel shall be fifteen thousand dollars a year. The corporation counsel shall have charge and conduct of all the law business of the corporation and its departments and boards and of all law business in which the city of New York is interested. He shall have charge and conduct of the legal proceedings necessary in opening, widening, altering and closing streets, and in acquiring real estate or interests therein for the city by condemnation proceedings, and the preparation of all leases, deeds, contracts, bonds and other legal papers of the city, or of, or connected with any department, board or officer thereof, and he shall approve as to form all such contracts, leases, deeds, bonds and other legal papers. He shall be the legal adviser of the mayor, the municipal assembly and the various departments, boards and officers and it shall be his duty to furnish to the mayor, the municipal assembly and to every department, board and officer of the city all such advice and legal assistance as counsel and attorney in or out of court as may be required by them or either of them, and for that purpose the corporation counsel may assign an assistant or assistants to any department that he shall deem to need the same. No officer, board or department of the city, unless it be herein otherwise especially provided, shall have or employ any attorney or counsel. The corporation counsel shall have the right to institute actions in law or equity, and any proceedings provided by the code of civil procedure or by law in any court, local, state, or national, to maintain, defend and establish the rights, interests, revenues, property, privileges, franchises or demands of the city, or of any part or portion thereof, or of the people thereof, or to collect any money, debts, fines or penalties or to enforce the laws and ordinances. He shall be a member of the board of estimate and apportionment and of the board of public improvements.

Corporation counsel's power of appointment.

Sec. 256. The corporation counsel may appoint, and at pleasure remove, as many assistants to the corporation counsel as are necessary to the discharge of the duties of the law department, and he may appoint and at pleasure remove such clerks, assistants, and subordinates as are requisite to the discharge of the business of the department, giving to his appointees such titles or designations as he may deem appropriate to their services, respectively. He shall fix and regulate the salaries and compensation of all of his appointees within the limits of the appropriation for his department. Any assistant corporation counsel shall, in addition to his other powers, possess every power and perform all and every duty belonging to the office of the corporation counsel, or so much of such duties as the corporation counsel shall deem it necessary to delegate whenever so empowered by said corporation counsel by written authority, designating therein a period of time, not extending beyond three months, nor beyond the term of office of said corporation counsel, during which such power and authority may be exercised; such designation and authority must be duly filed and remain on record in the law department, and may be revoked at any time.

Branch offices.

Sec. 257. In addition to the main office of the corporation counsel, which shall be located in the borough of Manhattan, he shall have an office in the borough of Brooklyn, and, in his discretion, may maintain an office in the borough of the Bronx, the borough of Queens and the borough of Richmond, or either of them.

Bureaus.

Sec. 258. The corporation counsel may establish such bureaus for divisions of service in the law department as he may judge most conducive to the efficient discharge of duty. There shall be a bureau in the law department to be known as the bureau of street openings. It shall have charge, under the direction of the corporation counsel, of such legal proceedings to open, widen, alter or close streets and parks, and to acquire title to or extinguish interests in real estate therefor, and of all such other proceedings involving awards for damages or assessments for benefit to lands, tenements and hereditaments as may be assigned to it by the corporation counsel. The corporation counsel shall appoint and remove at will the head of said bureau and all other employes thereof, and shall regulate their salaries and compensation. The assistants to the corporation counsel assigned to such bureau shall conduct in his behalf, and subject to his direction and control, all legal proceedings so assigned, and may also act as clerks to the commissioners of estimate or the commissioners of estimate and assessment in all such proceedings. Such bureau shall furnish to the commissioners of estimate or the commissioners of estimate and assessment in each proceeding suitable offices and all the assistance which they may require in preparing their preliminary abstracts of estimate or of estimate and assessment, and their final reports for presentation to the supreme court for confirmation. The compensation of the head of said bureau and of all other employes thereof, and all the legal costs, charges, expenses and disbursements incurred by said bureau on account of such proceedings, shall be divided proportionately, as nearly as practicable, to the services rendered or expense incurred in each of the said proceedings, and shall be included in the assessment for benefit to be imposed by the commissioners of estimate or the commissioners of estimate and assessment in each proceeding as part of the costs, charges and expenses thereof, after the same shall have been taxed by the court in the manner now provided by law for the taxation of such costs, charges, expenses and disbursements, but the compensation of the employes of said bureau and the necessary charges, expenses and disbursements thereof shall be chargeable to and shall be paid monthly, in the first instance by the controller of the city of New York, out of the fund known as the fund for street and park openings, created by chapter one hundred and seventy-three of the laws of eighteen hundred and eighty-five, and the acts amendatory thereof and supplemental thereto, upon pay rolls and vouchers duly certified by the corporation counsel. The assistant clerks or other appointees of this bureau engaged in the transaction of business or duties pertaining to the borough of Brooklyn may have their office in the borough hall or public building of the borough of Brooklyn, and if, in the judgment of the corporation counsel it be convenient and advisable, such of the assistants, clerks or other appointees of this bureau as may be engaged in the transaction of business pertaining to the borough of the Bronx, the borough of Richmond or the borough of Queens, may likewise have an office in either of said boroughs.

Bureau for recovery of penalties.

Sec. 259. There shall be a bureau in the law department for the recovery of penalties for the violation of any law or municipal ordinance, to be called the bureau for the recovery of penalties. All actions for such recovery shall be brought in the name of the city of New York, and not in that of any department, except where otherwise provided by this act. The assistant corporation counsel assigned to this bureau in the main office, or in the branch office located in any borough, shall not receive for his own use any fees or emoluments in addition to his salary, and he shall pay into the city treasury all costs and commissions received by him from any source whatever; such payments shall be made monthly, and shall be accompanied by a sworn statement in such form as the controller shall prescribe. Such statement, with a detailed list of costs, commissions, fines and penalties collected, shall be published in the City Record monthly. All fines or moneys from whatsoever source, received by the head of this bureau, shall be paid into the treasury,

of the city, except as otherwise specially provided by law.

Bureau for collection of arrears of personal taxes.

Sec. 260. There shall be a bureau in the law department for the collection of arrears of personal taxes, to be called the bureau for the collection of arrears of personal taxes. The assistant corporation counsel assigned to this bureau shall give a bond to the city of New York, with one or more sureties, to be approved by controller and corporation counsel, in the penal sum of ten thousand dollars, conditioned for the faithful performance of the duties of the office and the payment over of all taxes collected by him, which shall be filed in the controller's office and he and his bondsman or bondsmen shall be responsible to the corporation therefor.

Presentation of claims to be pleaded.

Sec. 261. No action or special proceeding, for any cause whatever, shall be prosecuted or maintained against the city of New York, unless it shall appear by and as an allegation in the complaint or necessary moving papers that at least thirty days have elapsed since the demand, claim or claims upon which such action or special proceeding is founded were presented to the controller of said city for adjustment, and that he has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment. If the plaintiff recovers judgment in his action or special proceeding he shall recover full taxable costs without regard to the amount of the judgment.

Jurisdiction of actions against the city.

Sec. 262. The supreme court shall have exclusive jurisdiction over all actions or special proceedings wherein the city of New York is made a party defendant. And all such actions shall be tried in that county wholly embraced within the city of New York in which the cause of action arose, or in the county of New York, subject to the power of the court to change the place of trial in the cases provided by law.

Service of process.

Sec. 263. All process and papers for the commencement of actions and legal proceedings against the city of New York shall be served either upon the mayor, the controller or the corporation counsel.

Issuance of execution.

Sec. 264. No execution shall be issued upon any judgment recovered against the city of New York until after ten days' notice in writing, of the recovery of such judgment shall have been given to the controller.

CHAPTER VIII.

POLICE DEPARTMENT.

Police board. Commissioners. Salary.

Sec. 270. The head of the police department shall be called the police board. Said board shall consist of four persons, to be known as police commissioners of the city of New York. They shall be appointed by the mayor and shall hold their respective offices as provided in chapter IV of this act. No more than two of said commissioners shall, when either of them is appointed, belong to the same political party, or be of the same political opinion on state and national politics. The salary of each of said police commissioners shall be five thousand dollars a year.

Police board. Authority. Bureau of elections

Sec. 271. The said police board shall have cognizance and control of the government, administration, disposition and discipline of the said police department, and of the police force of said department, and it shall also have cognizance and control of the bureau of elections hereinafter mentioned, and said bureau of elections shall be a part of said police department.

Id.; to make and enforce rules and regulations.

Sec. 272. The said police board shall make, adopt and enforce such rules, orders and regulations, and do all such other acts as may be reasonably necessary to effect a prompt and efficient exercise of all powers conferred by law, and the performance of all duties imposed by law upon the said board or said department, or upon any part of or person in said department. But said board shall do no act which is contrary to or inconsistent with this act.

Boards and offices abolished and forces consolidated.

Sec. 273. Except as herein otherwise expressly provided, the police department, the board of police and the offices of the police commissioners of the city of New York, provided for by the New York city consolidation act of 1882, and the acts amendatory thereof, the office of commissioner of police and excise of the city of Brooklyn, the board of police commissioners for Long Island City and the board of commissioners of police for the county of Richmond are hereby abolished. The respective police forces and departments heretofore existing in the said cities and the said county, including the park police, of the mayor, aldermen and commonalty of the city of New York, and the park police of the city of Brooklyn, and the police force of the Brooklyn bridge are hereby consolidated into one department and force to be constituted, controlled and administered as provided in this chapter.

Police department; powers and authority transferred to.

Sec. 274. All the rights, powers, authority, duties and obligations immediately heretofore by law invested in or imposed upon the police departments, or either of the boards or commissioners mentioned in the last above section, shall forthwith by force of and as an effect of this chapter be transferred to and continue in and upon the police department created by this act except in so far as the same shall be contrary to or inconsistent with the provisions of this chapter.

All the rights, powers, authority, duties and obligations relative to, or connected with the appointment, control or cognizance of any police force immediately heretofore by law vested in or imposed upon the commissioners of public parks in the city of New York, the department of parks of the city of Brooklyn, and the board of trustees of the Brooklyn bridge, shall forthwith, by force of, and as an effect of this chapter be transferred to and continued in and upon the police department created by this act, except in so far as the same shall be contrary to or inconsistent with the provisions of this chapter.

Property to vest in the City of New York and be managed by police department.

Sec. 275. All moneys, funds and property, and all rights and title to and interest in, and possession of and control over and all rights to the use and possession of any moneys, funds or property, which when this act takes effect shall be vested in, held or exercised by the department, or either of the boards or commissioners mentioned in section 273 of this act, or which shall then be applicable to, or used for the purposes of, or in the maintenance of, or in connection with the functions or duties of either of the respective police forces appointed by the commissioners of public parks in the city of New York, the department of parks of the City of Brooklyn, or the said trustees of the Brooklyn bridge, shall forthwith by force of and as an effect of this chapter, be and become vested in the city of New York, and the same shall be held, exercised, managed, controlled, used and applied by and under the direction of the police department created by this act until it is otherwise lawfully provided. No such money, funds or property shall however be used for or applied to any purpose different in kind from that for or to which the same might theretofore have been lawfully used or applied until such different use or application shall first have been lawfully authorized.

Police force; composition.

Sec. 276. Until otherwise provided by the municipal assembly, upon the recommendation of the police board, the police force in the police department created by this chapter shall consist of the following members, to wit: A chief of police, five deputy chiefs of police, ten inspectors of police, captains of police, not exceeding in number one to each fifty of the total number of patrolmen, except in the rural portion of the city; sergeants of police, not exceeding four in number to each fifty of the total number of patrolmen; roundsmen, not exceeding four in number to each fifty patrolmen; detective sergeants to the number authorized by law; doormen of police, not exceeding two in number to each fifty of the total number of patrolmen; surgeons of police, not exceeding forty in number, one of whom shall be chief surgeon, and patrolmen to the number of six thousand three hundred and eighty-two.

Id.; members of former forces in New York city transferred.

Sec. 277. The members of the police force of the city of New York, and the members of the police force appointed by the commissioners of public parks in said city, as said forces are provided for by sections 265 and 690 of the New York city consolidation act of 1882, and by the statutes amendatory of and supplementary to said sections, who shall be such members of said forces respectively when this act takes effect, shall be members of the police force specified in section 276 of this act. The employes of the telegraph force of the police department, of the mayor, aldermen and commonalty of the city of New York who are in office when this act takes effect, shall take the same rank in the police force specified in section 276 of this act, as the telegraph force of the police department of the City of Brooklyn has under existing laws; provided, however, that until otherwise ordered by the police board, the superintendent of telegraph of the police force of the mayor, aldermen and commonalty of the city of New York shall be superintendent of telegraph for the police force specified in said section 276 of this act; and the deputy superintendent of telegraph of the police force of said, the mayor, aldermen and commonalty of the city of New York shall be deputy superintendent of telegraph in the central office in the borough of Manhattan; and the superintendent of telegraph of the police force of the city of Brooklyn shall be superintendent of police telegraph for the borough of Brooklyn.

Id.; members of former forces in Brooklyn transferred.

Sec. 278. The superintendent and deputy superintendent of police, and each inspector,

captain, sergeant, detective sergeant, roundsman, patrolman, door-man, bridge-keeper, police surgeon, superintendent of telegraph and telegraph operator, who is, when this act takes effect, in, of, or attached to the police force of the city of Brooklyn, or the police force appointed by the department of parks of said city, or the police force appointed by the board of trustees of the New York and Brooklyn bridge, pursuant to section 8 of chapter 300 of the laws of 1875, and the acts amendatory thereof or supplementary thereto, shall be members of the police force specified in section 276 of this act.

Id.; members of former force in Long Island City transfererd.

Sec. 279. The lawfully appointed captain, sergeant and patrolmen of the police force of Long Island City who shall be such when this chapter takes effect, shall be members of the police force specified in section 276 of this act.

Id.; members of former force in Richmond county transferred.

Sec. 280. The captain and each sergeant, roundsman and patrolman of the police force of the county of Richmond, or of any town or village in that part of the county of Queens included in the city of New York, as hereby constituted, shall be members of the police force specified in section 276 of this act.

Police board; authority over members transferred by preceding sections. Rank of transferred members.

Sec. 281. The police board created by this act shall have the same powers, control and authority over the members of the police force transferred thereto by sections 277, 278, 279 and 280 of this act, and over their tenure of such membership and removal therefrom, as the said board shall have over the members of said force, appointed thereto by said board, and especially, except as otherwise provided by this chapter, to fix and assign the rank, title, duties, powers and place of service of said transferred members. Until by said board otherwise provided the rank, title, duties, powers and place of service of said transferred members shall be the same as they were in the police force to which they belonged before this act took effect.

Id.; authority over employes of former boards; duties and salaries of such employes.

Sec. 282. All clerks, matrons, secretaries, and other subordinates, assistants and employes attached to or in the service of the department or either of the boards or commissioners specified in section 273 of this act, until it shall be otherwise provided by the police board created by this act, shall perform like services and duties and receive therefor the same salaries or compensation as they performed and received respectively prior to this act taking effect. But such clerks, matrons, secretaries and other subordinates, assistants and employes, their services, duties, salaries or compensation, tenure of and removal from their positions or employment shall in all respects be subject to the control and authority of the police board created by this act.

Id.; power to appoint and remove members and employes—salaries and fines.

Sec. 283. Subject to the powers by this act conferred on the board of estimate and apportionment and the municipal assembly of the city of New York, and to such other provisions of this act as may limit their power in the premises, the police board created by this act shall have power to appoint and remove the members of the police force specified in section 276 of this act, and also such clerks, police matrons, secretaries, and other subordinates, assistants and employes as may be reasonably necessary to the proper performance of the duties and execution of the powers and functions of the police department created by this act or of any of the component parts thereof, and to prescribe their respective ranks, duties and compensation. The salary or compensation of any of such members of the said police force as are specified in sections 277, 278, 279 and 280 of this act, as the same is lawfully fixed at the time this chapter takes effect and immediately prior thereto, shall not be decreased. The salary or compensation of members of the police force shall be subject to all fines, penalties, forfeitures and deductions lawfully imposed for cause.

Police force; qualifications of members. Publishing names and residence of applicants and appointees.

Sec. 284. No person shall ever be appointed or reappointed to membership in the police force or continue to hold membership therein who is not a citizen of the United States or who has ever been convicted of felony, or who cannot read and write understandingly in the English language, or who shall not have resided within the state one year next preceding his appointment, but skilled officers of experience may be appointed for detective duty who have not resided as herein required. No person shall be appointed patrolman who shall be at the date of such appointment over thirty years of age; nor shall any person who shall have been a member of the force and resigned, or have been dismissed therefrom, be reappointed, except upon the concurring vote of all the members comprising the board to be taken by ayes and noes, and recorded in the minutes. The name, residence and occupation of each applicant for appointment or reappointment to any position in the police department, as well as the name, residence and occupation of each person appointed to any position, shall be published, and such publication shall, in every instance, be made, on the Saturday next succeeding such application, or appointment, in the City Record.

Id.; warrant of appointment; oath.

Sec. 285. Every member of the police force shall have issued to him, by the police department, a proper warrant of appointment, signed by the president of the police board and chief clerk or first deputy clerk of said department or of the police board, which warrant shall contain the date of his appointment and his rank. Each member of the police force shall, before entering upon the duties of his office, take an oath of office and subscribe the same before any officer of the police department who is empowered to administer an oath.

Id.; Chief of police—first appointment.

Sec. 286. The chief of police first appointed under this chapter shall be selected from one of the following named members transferred to the police force by section 277 and 278 of this act, to wit: The chief of police, the superintendent of police, the deputy chief of police and the deputy superintendent of police.

Id.; other officers—first appointments.

Sec. 287. In making the first appointments of the other members of the police force specified in section 276 of this act, whose appointment may be necessary to make up the full membership of said force provided for by said section, three of the deputy chiefs shall be selected from the chief of police, the superintendent of police, the deputy chief of police and the deputy superintendent of police, transferred by sections 277 and 278 of this act, and two from the inspectors of the respective police forces transferred by sections 277, 278, 279 and 280 of this act; inspectors of police shall be selected from, first, the police inspectors, and second, from the captains of police transferred as aforesaid; the captains of police shall be selected from, first, the captains, and second, from the sergeants of the respective police forces transferred by sections 277, 278, 279 and 280 of this act; sergeants of police shall be selected from, first, the sergeants, and second, from the detective sergeants and roundsmen of the respective police forces transferred, by sections 277, 278, 279 and 280 of this act.

Id.; promotions.

Sec. 288. Promotions of officers and members of the police force shall be made by the police board, as provided in section 304 of this act, on grounds of seniority, meritorious police service and superior capacity; and shall be as follows: Sergeants of police shall be selected from among patrolmen asigned to duty as roundsmen, as provided in section 292 of this act, captains from among the sergeants; inspectors from among captains; deputy chiefs of police from among inspectors and captains; and chief of police from among deputy chiefs, inspectors and captains, but no promotion shall be made, except in the case of a vacancy in the office of chief of police, unless the same is recommended by the chief of police is writing, stating his reason for such recommendation. In case of the rejection of any recommendation for promotion, the chief of police shall submit another name within three days, and shall continue so to do until the vacancy is filled.

Id.; increase of.

Sec. 289. The police board is authorized to increase the police force by adding to the number of patrolmen from time to time, provided the board of estimate and apportionment and the municipal assembly shall have previously made an appropriation for that express purpose, such increase not to exceed one hundred and fifty in any one year. The board of estimate and apportionment and the municipal assembly may include in the annual budget from year to year, and the controller shall certify, as required by law, to the municipal assembly, and the municipal assembly shall include in the annual tax levy an amount sufficient to provide for the compenstion of the additional patrolmen authorized to be appointed pursuant to the provisions of this section.

Id.; Central office bureau of detectives.

Sec. 290. The police board shall maintain a bureau which shall be called the central office bureau of detectives, and shall select and appoint to perform detective duty therein as many patrolmen as said board may, from time to time, determine to be necessary to make that bureau efficient. The patrolmen so selected and appointed shall be called detective sergeants, and shall be assigned to duty in that bureau, and while performing such detective duty shall be vested with the same authority and be entitled to receive and be paid the same salary as sergeants of police under this chapter, but the police board may by order, reduce to the grade of patrolmen, and transfer such detective sergeants or any of them to perform patrol or other police

duty, and when so transferred they shall only be entitled to receive and be paid the same rate of compensation each as ordinary patrolmen of the police force under this chapter. Nothing in this section shall be construed to authorize the police board to appoint any additional patrolmen in place of said detective sergeants. The headquarters of said central office bureau of detectives shall be at the police headquarters in the borough of Manhattan, and a branch office thereof shall be maintained at the police headquarters in the borough of Brooklyn, and other branch offices thereof may be maintained at the police headquarters in each of the other boroughs into which the city of New York is divided by this act.

No member of department to be interested in other office.

Sec. 291. Any police commissioner, or any member of the police force, who shall, after qualifying in office, accept any additional place of public trust or civil emolument, or who shall during his term of office be publicly nominated for any office elective by the people, and shall not, within ten days succeeding the same, publicly decline the said nomination, shall be in either case deemed thereby to have resigned his commission and to have vacated his office, and all votes cast at any election for any person holding the office of police commissioner, or within thirty days after he shall have resigned such office, shall be void.

Chief of police; duties and powers.

Sec. 292. The chief of police shall be the chief executive officer of the police force. He shall be chargeable with and responsible for the execution of all laws and the rules and regulations of the department. He shall assign to duty the officers and members of the police force, and shall have power to change such assignments from time to time whenever, in his judgment, the exigencies of the service may require such change; provided, however, that permanent assignments of patrolmen to roundsmen shall be made by the police board on the recommendation of the chief of police, and in case of the rejection of any such assignment recommended by the chief of police, he shall within three days submit another name and continue so to do until a permanent assignment is made. He shall have power to suspend without pay, pending the trial of charges, any member of the police force; provided, however, that no such suspension shall be continued for a period of more than ten days without affirmative action to that effect by the police board. If any member of the police force so suspended shall not be convicted by the police board of the charges so preferred, he shall be entitled to full pay from the date of suspension, notwithstanding such charges and suspension. Said chief of police may grant leaves of absence to members of the force for a period not exceeding five days. He shall report to the police board all changes or assignments of officers and all leaves of absence granted.

Id.; absence or disability of.

Sec. 293. In case of the absence or disability of the chief of police a deputy chief of police designated by the police board, or in case no deputy chief is designated, then a deputy chief of police designated by the chief of police shall discharge all the duties of chief of police; or, in case each deputy chief of police be absent or disabled, or, for any good cause, is not available for such designation, then the duties of chief of police shall be performed by one of the inspectors of police to be designated by the police board.

Police surgeons. Duties and districts.

Sec. 294. The duties of the police surgeons and the extent and bounds of their districts shall be assigned, from time to time, by the rules and regulations of the police board. The police board may, if requested by the department of health, employ their surgeons to aid the sanitary inspectors in the discharge of their duties, under such regulations and orders as the police board may make and issue.

Police Board. President and treasurer.

Sec. 295. The police board shall appoint and remove at pleasure one of their number as the president and another of their number as treasurer of said board, and prescribe for and assign to them respectively as president and treasurer such powers and duties as may be consistent with law.

Id.; Duties of treasurer. Bond. Deputy treasurer.

Sec. 296. The treasurer of said board shall be the fiscal officer thereof and chief purchasing agent of the department, and shall, by check and voucher, duly disburse by order of the said police board, all moneys belonging to the police department or police fund, and shall deposit the same, when paid to him, in a bank or banks or trust company designated by said police board. The treasurer shall, within twenty days after he shall have received notice of his appointment and before he shall enter upon the execution of the duties of his office, execute a bond in not less than the sum of twenty thousand dollars, to the city of New York, with two sufficient sureties, who shall each justify in the sum of not less than twenty thousand dollars, conditioned that he will well and faithfully in all things perform and execute the office of treasurer during his continuance in office, said bond to be approved by the controller and filed in his office. The said treasurer shall have power, as soon as may be after he takes upon himself the execution of his office, to appoint, by and with the consent of the police board, some proper person, deputy treasurer, to hold office during the pleasure of the treasurer, and as often as a vacancy shall occur in the office of the said deputy treasurer, or he shall become incapable of executing the same another shall, in like manner be appointed in his place. In case of the absence, inability or disability of the treasurer to perform his duties the said deputy treasurer shall have full powers to perform all the duties of the treasurer during such absence, inability or disability. The treasurer shall be responsible for all the acts of the deputy treasurer and any default or malfeasance in the office of such deputy treasurer shall be deemed to be a breach of the condition of the bond given by said treasurer who appointed him, as herein provided.

Id.; To pay salaries and discharge obligations of department.

Sec. 297. The police board through its treasurer, and in pursuance of orders, rules and regulations of the police board, shall pay all salaries and wages to officers and members of the police department and force, as established by and in pursuance of law, and all bills, claims and obligations lawfully incurred by or by authority of said police department; and the controller shall pay over to the treasurer of the police board on the requisition of the police board, the total amount annually estimated, levied, raised, and appropriated for the support and maintenance of the police department and force, from time to time, and in such sums as shall be required (not exceeding one-twelfth part of said total annual amount in any one month), and the treasurer of the police board, if required by the controller, shall transmit to the department of finance, each month, duplicate vouchers for the payment of all sums of money made on account of the police department during each month. The police board shall procure and pay for all printing, books, blanks, paper, and other articles of stationery required for the administration and business of the department and each bureau thereof.

Id.; Copy of minutes when evidence.

Sec. 298. A copy of the minutes of the police board, or of any part of said minutes, or of any order or resolution of said board, or of the rules and regulations established by said board, or any or either of them, when certified by the president of said board and the chief clerk, or first deputy clerk of said board or of said police department, may be given in evidence upon any trial, investigation, hearing or proceeding in any court, or before any tribunal, commissioner or commissioners, or board, with the same force and effect as the original.

Salaries of officers and members of the force.

Sec. 299. Except as otherwise provided in sections 283 and 290 of this act, the annual salaries and compensation of the officers and members of the police force shall be as follows, to wit: Of the chief of police, six thousand dollars; of each deputy chief of police, five thousand dollars; of each inspector of police, three thousand five hundred dollars; of each captain of police, two thousand seven hundred and fifty dollars; of each police surgeon, three thousand dollars; of each sergeant of police, two thousand dollars; of each doorman, one thousand dollars; of each roundsman, one thousand five hundred dollars; and the grade and pay or compensation of patrolmen or policemen shall be as follows, to wit: All such members who are patrolmen and who shall have served five years or upward on said force, shall be members of the first grade. All such members who shall have served on such force for less than five years and more than four years and six months, shall be members of the second grade. All such members who shall have served on such force for less than four years and six months, and more than four years, shall be members of the third grade. All such members who shall have served on such force for less than four years and more than three years, shall be members of the fourth grade. All such members who shall have served on such force for less than three years and more than two years, shall be members of the fifth grade. All such members who shall have served on such force for less than two years and more than one year, shall be members of the sixth grade. And all persons appointed patrolmen on or after the first day of January, eighteen hundred and ninety-eight, shall be members of the seventh grade. Whenever any member of the seventh grade shall have done service therein for one year, he shall be advanced to the sixth grade. Whenever any member of the sixth grade shall have done service therein for one year, he shall be advanced to the fifth grade. Whenever any member of the fifth grade shall have done service therein for one year, he shall be advanced to the fourth grade. Whenever any member of the fourth grade shall have done service therein for one year, he shall be advanced to the third grade. Whenever any member of the third grade shall have done service therein for six months, he shall be advanced to the second grade. And any member of said force who shall have served six months in the second grade, shall become a

member of the first grade. But no such patrolman shall be so advanced as aforesaid, except after examination and approval by the police board of his record, efficiency and conduct. The annual pay or compensation of the members of the police force who are patrolmen, as aforesaid, shall be as follows: For members of the first grade, at the rate of not less than one thousand four hundred dollars each; for members of the second grade, at the rate of not less than one thousand three hundred and fifty dollars each; for members of the third grade, at the rate of not less than one thousand two hundred and fifty dollars each; for members of the fourth grade, at the rate of not less than one thousand one hundred and fifty dollars each; for members of the fifth grade, at the rate of not less than one thousand dollars each; for members of the sixth grade, at the rate of not less than nine hundred dollars each; for members of the seventh grade, at the rate of not less than eight hundred dollars each. The pay or compensation aforesaid shall be paid monthly to each person entitled thereto, subject to such deductions for or on account of lost time, sickness, disability, absence, fines or forfeitures, as the police department may, by rules and regulations, from time to time prescribe or adopt.

Nothing in this section contained shall be construed to change in any way the salaries or grading, present or prospective, of the patrolmen or policemen who are or become members of the New York police force prior to January first, eighteen hundred and ninety-eight.

All other patrolmen or policemen of the various police forces consolidated into a single force by the provisions of this act, shall belong, so far as pay or compensation is concerned, to the grade indicated by the pay or compensation which they are respectively receiving on January first, eighteen hundred and ninety-eight. But nothing in this section contained shall be construed to affect in any other way the rights and privileges secured under the provisions of this act to the members of the various police forces consolidated into a single force by this act

The date for the eligibility of any member of the forces transferred to the consolidated force by sections 277, 278, 279and 280 of this act for advancement to the next grade, shall be the day of the year on which he was originally appointed to the force from which he was transferred; and any member of the forces so transferred not a member of the New York police force prior to January first, eighteen hundred and ninety-eight, whose salary falls between two grades, shall receive the salary of and be assigned to the grade next above the salary he is receiving at the time of transfer.

Salaries of all officers in the forces so transferred, other than officers in the New York police prior to January 1, 1898, shall be equalized on the same basis. If the difference in pay is not more than $50 the pay shall be equalized at once. If the difference is more than $50 the pay shall be made uniform within three years by equal annual additions.

Police board. Rules, etc., for government and discipline of police department and police force. Dismissals.

Sec. 300. The police board is authorized and empowered to make, adopt and enforce rules, orders and regulations for the government, discipline, administration and disposition of the police department and police force and the members thereof. It shall have power and is authorized to adopt rules and regulations for the examination, hearing, investigation and determination of charges made or preferred against any member or members of the said police force, but no member or members of the police force except as otherwise provided in this chapter shall be fined, reprimanded, removed, suspended or dismissed from the police force until written charges shall have been made or preferred against him or them, nor until such charges have been examined, heard and investigated before one or more members of said board, upon such reasonable notice to the member or members charged, and in such manner of procedure, practice, examination and investigation as the said board may, by rules and regulations, from time to time prescribe. Such rules are regulations shall as nearly as may be provide that where a charge is preferred against any member of the police force the investigation of such charge and the taking of testimony with reference thereto shall be at police headquarters in the borough within which the accused member was serving at the time the charge was preferred. In all cases where the offense charged is punishable by fine, the case may be fully and finally disposed of by one commissioner. Any member of the police force who may hereafter become insane or of unsound mind, so as to be unable or unfit to perform full police service or duty, may be removed and dismissed from the police force by the board. The police board may, by a unanimous vote of the board, or by a vote of a majority of its members, with the approval of the mayor, retire the chief of police or any deputy chief.

Police Commissioners, etc., may issue subpenas. Who may administer oaths.

Sec. 301. Either of the police commissioners shall have power to issue subpenas attested in the name of the president of the police board, and to exact and compel obedience to any order, subpena or mandate issued by them, and to that end may institute and prosecute any proceedings or action authorized by law in such cases. They or either of them may in proper cases issue subpenas duces tecum. Said board may devise, make and issue process and forms of proceedings to carry into effect any powers or jurisdiction possessed by them. Each of the police commissioners, the chief of police, each deputy chief of police, the chief clerk and first deputy clerk of said police board or police department are hereby authorized and empowered to administer oaths and affirmations in the usual or appropriate forms, to any person in any matter or proceedings authorized as aforesaid, and in all matters pertaining to the police department or the duties of any officer or other person in matters of or connected with said department, and to administer oaths of office which may be taken or required in the administration of affairs of said department, and to take and administer oaths and affirmations, in the usual or appropriate forms, in taking any affidavit or deposition which may be necessary or required by law or by any order, rule, or regulation of the police board, for or in connection with the official purposes, affairs, powers, duties or proceedings of said police department, or of said police board, or of any police commissioner, or member of the police force, or any official purpose lawfully authorized by said board. Any person making a complaint that a felony or misdemeanor has been committed may be required to make oath or affrmation thereto, and for this purpose a police commissioner, the chief of police, the deputy chiefs of police, the chief clerk or deputy clerks of the police department or police board, the inspectors, captains and sergeants of police shall have power to administer oaths and affirmations.

Police board. Punishments by. Limitation of suits for reinstatements, etc.

Sec. 302. The police board shall have power, in its discretion, on conviction by it or by any court or officer of competent jurisdiction, of a member of the force of any criminal offense, or neglect of duty, violation of rules, or neglect or disobedience of orders, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct, or conduct unbecoming an officer, or any breach of discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, suspension, without pay during such suspension, or by dismissal from the force; but no more than thirty days' pay or salary shall be forfeited or deducted for any offense. All such forfeitures shall be paid forthwith to the treasurer of the department to the account of the police pension fund. The police board is also authorized and empowered, in its discretion, to deduct and withhold pay, salary or compensation from any member or members of the police force, for or on account of absence for any cause without leave, lost or sick time, sickness or other disability, physical or mental; provided, however, that the pay, salary, or compensation so deducted and withheld shall not, except in case of absence without leave, exceed one-half thereof for the period of such absence, any act or law to the contrary notwithstanding; and said police board is authorized and empowered from time to time to make and proscribe rules and regulations to carry into effect and enforce the provisions of this section. No action, suit or proceeding, either at law or in equity, shall be commenced or maintained against the police department, or any member thereof, or against the police board, police commissioners or either of them, or against the city of New York by any member or officer, or former member or officer of or belonging to the police force or department of said city to recover or compel the payment of any salary, pay, money or compensation for or on account of any service or duty, or to recover any salary, compensation or moneys, or any part thereof forfeited, deducted or withheld for any cause, or to restore or reinstate to the police force or department any member or officer thereof, unless such action, suit, or proceeding shall be commenced within two years after the cause of action shall have accrued; provided that causes of action or proceedings which shall have heretofore accrued may be begun or brought within six years after the same shall have accrued and within two years after the passage of this act; but nothing in this section contained shall be construed or held to extend the time in which causes of action or proceedings which shall have heretofore accrued must be brought.

Police force. Resignations and absences on leave.

Sec. 303. No member of the police force, under penalty of forfeiting the salary or pay which may be due him, shall withdraw or resign, except by permission of the police board. Absence without leave of any member of the police force for five consecutive days shall be deemed and held to be a resignation, and the member so absent shall, at the expiration of said period cease to be a member of the police force and be dismissed therefrom without notice. No leave of absence exceeding twenty days in any one year shall hereafter be granted or allowed to any member of the police force, except upon the condition that such member shall waive and release not less than one-half of all salary, pay or compensation

and claim thereto, or any part thereof, during such absence.

Id. Regulations of civil service commissioners.

Sec. 304. The civil service commissioners shall prescribe such regulations for the admission of persons into the police force and into the service of the police department as may best promote the efficiency thereof, and ascertain the fitness of candidates in respect to character, knowledge and ability for the police force. The regulations so to be prescribed shall, among other things, be in furtherance of the following provisions:

1. For open, competitive examinations for testing the fitness of applicants for the police force. Such examinations shall be practical in their character, and, so far as may be, shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of that service into which they seek to be appointed.

2. All offices, places and employment so arranged or to be arranged in classes shall be filled by selection from among those graded highest as the result of said competitive examinations; provided, however, that the said board shall not be required to appoint from, but may in their discretion, ignore those who have heretofore been reported or decided to be eligible for appointment.

3. There shall be a period of probation before any absolute appointment or employment in the police force.

4. Promotions from the lower grades to the higher grades shall be on the basis of seniority of merit, and of excellence, as shown by competitive examination. The police board shall transmit to the civil service commission the record of each candidate for promotion.

5. There shall be non-competitive examination where, after due efforts by previous public advertisement or otherwise, competition may be found not to be practicable.

Police board. Rewards to informers.

Sec. 305. The police board shall have authority to offer rewards to induce all classes of persons to give information which shall lead to the detection, arrest and conviction of persons guilty of homicides, arson, or receiving stolen goods, knowing them to be stolen; and to pay such rewards to such persons as shall give such information. But no such reward shall be offered unless there be an unexpended appropriation therefor made by the board of estimate and apportionment, which shall make the necessary appropriation for such purpose.

Police force. Gratuities and political contributions forbidden. May be permitted to retain rewards.

Sec. 306. No member of the police force or employe of the police department shall, under any pretense whatsoever, share in, for his own benefit, any present, fee, gift or emolument for police services, or for services of the police department or any member thereof, additional to his regular salary, pay or compensation. The police board, for meritorious and extraordinary services rendered by any member of the police force in due discharge of his duty, may permit such member of the police force to retain for his own benefit any reward or present, or some part thereof, tendered him therefor; and it shall be cause for removal from the police force for any member thereof to receive any such reward or present without notice thereof to the police board. Upon receiving said notice, the police board may either order the said member to retain the same, or shall dispose of it for the benefit of the police pension fund. No person in the police force shall be permitted to contribute any moneys directly or indirectly to any political fund or to join or to be or become a member of any political club or association intended to affect legislation for or on behalf of the police department of any member thereof, or to contribute any funds for such purpose.

Id.; detail of policemen at polls.

Sec. 307. It shall be the duty of the chief of police to detail, or to cause to be detailed on election day, at least two patrolmen at each election poll. It shall be the duty of the police force, or any member thereof, to prevent any booth, or box, or structure for the distribution of tickets at any election from being erected or maintained within one hundred and fifty feet of any polling place within the city, and summarily to remove any such booth, box or structure, or to close and prevent the use thereof.

Id.; special patrolmen; when may be appointed. Military assistance.

Sec. 308. The police board may, upon an emergency or apprehension of riot, tumult, mob, insurrection, pestilence or invasion, appoint as many special patrolmen without pay from among the citizens as it may deem desirable. The mayor, or, in case of his failure so to do, the governor may demand the assistance of the militia of the state within the city, or of any brigade, regiment or company thereof, by order in writing served upon the commanding officer of any brigade and such commanding officer shall obey such order. Special patrolmen, appointed in pursuance of law, may be dismissed by order of the police board; and while acting as such special patrolmen shall possess the powers, perform the duties and be subject to the orders, rules and regulations of the police department in the same manner as regular patrolmen. Every such special patrolman shall wear a badge, to be prescribed and furnished by the police board. No transfer, detail or assignment to special duty of any member of the police force, except in cases authorized or required by law, shall hereafter be made or continued, except for police reasons and in the interests of police service; provided, however, that the chief of police may, whenever the exigencies of the case require it, make detail to special duty for a period not exceeding three days, at the expiration of which the member or members so detailed shall report for duty to the officer of the command from which the detail was made. The police board, whenever expedient, may on the application of any person or persons, corporation or corporations, showing the necessity therefor, detail regular patrolmen of the police force, or appoint and swear any number of special patrolmen to do special duty at any place in the city of New York upon the person or persons, corporation or corporations by whom the application shall be made, paying, in advance, such regular or special patrolmen for their services, and upon such regular or special patrolmen, in consideration of their appointment, signing an agreement in writing releasing and waiving all claim whatever against the police department and the city of New York for pay, salary or compensation for their services and for all expenses connected therewith; regular patrolmen so detailed shall be paid at the same rate as provided for patrolmen in this act; but the regular or special patrolmen so appointed shall be subject to the orders of the chief of police and shall obey the rules and regulations of the police department and conform to its general discipline and to such special regulations as may be made and shall wear such dress or emblems as the department may direct, and shall during the term of their holding appointment possess all the powers and discharge all the duties of the police force, applicable to regular patrolmen. The special patrolmen so appointed may be removed at any time by the police board without assigning cause therefor, and nothing in this section contained shall be construed to constitute such special patrolmen members of the police force, or to entitle them to the privilege of the regular members of the force, or to receive any salary, pay, compensation or moneys whatever from the said police department or the city of New York, or to share in the police pension fund.

Police board. Detail persons to attend courts.

Sec. 309. It shall be the duty of the police board to cause some intelligent and experienced person connected with the police force to attend at the courts of the city in cases where there is need of such assistance, who shall, to such extent as the rules of the board of magistrates may reasonably require, aid in bringing the facts before the magistrates in proceedings pending in such police courts.

Police department to co-operate with department of health.

Sec. 310. It shall be the duty of the police department (and of its officers and men, as said police board shall direct) to promptly advise the department of health of all threatened danger to human life and health, and of all matters thought to demand its attention, and to regularly report to said department of health all violations of its rules and ordinances, and of the health laws, and all useful sanitary information. Said department shall, so far as practicable and appropriate, co-operate for the promotion of the public health and the safety of human life in said city. It shall be the duty of said police department, by and through its proper officers, agents and men, to faithfully and at the proper time enforce and execute the sanitary rules and regulations, and the orders of said department of health (made pursuant to the power of said department of health), upon the same being received in writing and duly authenticated as said department of health may direct. Said police department is authorized to employ and use the appropriate persons and means, and to make the necessary expenditures for the execution and enforcement of said rules, orders, and regulations, and such expenditures, so far as the same may not be refunded or compensated by the means herein elsewhere provided, shall be paid as the other expenses of said department of health are paid. In and about the execution of any order of the department of health, or of the police department made pursuant thereto, police officers and policemen shall have as ample power and authority as when obeying any order of or law applicable to the police department, or as if acting under a special warrant of a justice or judge, duly issued; but for their conduct they shall be responsible to the police department and not to the department of health. The department of health may, with the consent of the police department, impose any portion of the duties of subordinates in said department upon subordinates in the police department.

Police force. Arrests for violation of health laws.

Sec. 311. Any member of the police force may arrest without warrant any person who

shall, in view of such member, violate, or do, or be engaged in doing or committing in said city, any act or thing forbidden by chapter XIX of this act, or by any law or by any ordinance the authority to enact which is given by this act or any other statute or who shall, in such presence, resist or be engaged in resisting the lawful enforcement of any such law or ordinance or any official order made pursuant to any statute of this state. And any person so arrested shall thereafter be treated, disposed of and punished as any other person duly arrested for a misdemeanor unless other provision is made for the case by law.

Id.; Detail of officers and men to assist department of health.

Sec. 312. The police board, upon the requisition of the board of health, shall detail to the service of the said department of health for the purpose of the enforcement of the provisions of the sanitary code, and of the acts relating to tenement and lodging houses, not less than fifty nor more than one hundred suitable officers and men of experience of at least five years' service in the police force, provided that the department of health shall pay monthly to the police department a sum equal to the pay of all officers and men so detailed. At least thirty of the officers and men so detailed shall be employed exclusively in the enforcement of the laws relating to tenement and lodging houses. These officers and men shall belong to the sanitary company of police, and shall report to the board of health. The board of health may report back to the police department for punishment any member of said company guilty of any breach of orders or discipline, or of neglecting his duty, and thereupon the police board shall detail another officer or man in his place, and the discipline of the said members of the sanitary company shall be in the jurisdiction of the police department, but at any time the board of health may object to any member of said sanitary company on the ground of inefficiency, and thereupon another officer or man shall be detailed in his place.

Id.; Detail of officers and men to assist the department of public parks.

Sec. 313. The police board, upon the requisition of either of the commissioners of parks, shall from time to time detail to the service of the department of parks in the borough or boroughs under the charge of such commissioner, for the enforcement of the park ordinances and for the maintenance of good order in the parks, so many suitable officers and men as in the judgment of the police department are necessary. Such officers and men shall continue to be in all respects an integral part of the police force of the city and shall be paid out of the funds appropriated for the support of the police department. These officers and men shall constitute the park police so long as their detail lasts, and shall report to the park commissioner in charge of the parks in which they serve. Each commissioner of parks may report back to the police department for punishment any member of said park police force guilty of any breach of orders or discipline, or of neglecting his duty, and thereupon the police department may detail another officer or man in his place, and the discipline of the said members of the park police shall be in the jurisdiction of the police department, but at any time either commissioner of parks may object to the inefficiency of any member of said park police serving in any park under his charge and thereupon another officer or man may be detailed in his place.

Id.; Detail of officers and men to assist the department of bridges.

Sec. 314. The police board, upon the requisition of the commissioner of bridges shall from time to time detail to the service of the department of bridges for the enforcement of the ordinances regulating travel over any of the bridges and for the maintenance of good order thereon, so many suitable officers and men as in the judgment of the police department are necessary. Such officers and men shall continue to be in all respects an integral part of the police force of the city and shall be paid out of the funds appropriated for the support of the police department. These officers and men shall constitute the bridge police so long as their detail lasts, and shall report to the commissioner of bridges. The commissioner of bridges may report back to the police department for punishment any member of said bridge police force guilty of any breach of orders or discipline, or of neglecting his duty, and thereupon the police department may detail another officer or man in his place, and the discipline of the said members of the bridge police shall be in the jurisdiction of the police department, but at any time the commissioner of bridges may object to the inefficiency of any member of said bridge police and thereupon another officer or man may be detailed in his place.

Id.; Duties of.

Sec. 315. It is hereby made the duty of the police department and force, at all times of day and night, and the members of such force are hereby thereunto empowered to especially preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, mobs and insurrections, disperse unlawful or dangerous assemblages and assemblages which obstruct the free passage of public streets, sidewalks, parks and places; protect the rights of persons and property, guard the public health, preserve order at elections and all public meetings and assemblages; regulate the movement of teams and vehicles in streets, bridges, squares, parks and public places and remove all nuisances in the public streets, parks and highways; arrest all street mendicants and beggars, provide proper police attendance at fires, assist, advise and protect emigrants, strangers and travelers in public streets, at steamboat and ship landings and at railroad stations; carefully observe and inspect all places of public amusement, all places of business having excise or other licenses to carry on any business; all houses of ill fame or prostitution and houses where common prostitutes resort or reside; all lottery offices, policy shops and places where lottery tickets or lottery policies are sold or offered for sale; all gambling houses, cock pits, rat pits and public common dance houses, and to repress and restrain all unlawful and disorderly conduct or practices therein; enforce and prevent the violation of all laws and ordinances in force in said city; and for these purposes to arrest all persons guilty of violating any law or ordinance for the suppression or punishment of crimes or offenses.

Id.; General powers over certain trades.

Sec. 316. The chief of police and each deputy chief of police, and each inspector in his district, and each captain of police within his precinct, shall possess powers of general police supervision and inspection over all licensed or unlicensed pawnbrokers, venders, junk shop keepers, junk boatmen, cartmen, dealers in secand hand merchandise, intelligence office keepers and auctioneers within the said city; and in the exercise of said supervision may from time to time empower members of the police force to fulfil such special duties in the aforesaid premises as may be from time to time ordained by the police board. The said chief of police and each deputy chief of police, and each inspector in his district and each captain within his precinct may, by authority in writing, empower any member of the police force, whenever such member shall be in search of property feloniously obtained, or in search of suspected offenders, or evidence to convict any person charged with crime, to examine the books of any pawnbroker or his business premises, or the business premises of any licensed vender, or licensed junk shop keeper, or dealed in second hand merchandise, or intelligence office keeper, or auctioneer, or boat of any junk boatman. Any such member of the police, when thereto authorized in writing by the said chief, shall be authorized to examine property alleged to be pawned, pledged, deposited, lost or stolen, in whosesoever possession said property may be; but no such property shall be taken from the possessor thereof without due process or authority of law.

Id ; May examine pawnbrokers' books.

Sec. 317. The chief of police, deputy chiefs of police, inspectors of police and captains of police and persons acting by their, or by either of their orders, shall have power to examine the books of any pawnbroker, his clerk or clerks, if they deem it necessary, when in search of stolen property, and any person having in his possession a pawnbroker's ticket shall, when accompanied by a policeman, or by an order from the chief of police or deputy chief of police, or inspector of police, or captain of police, be allowed to examine the property purporting to be pawned by said ticket, but no property shall be removed from the possession of any pawnbroker without the process of law required by the existing laws of this state, or the laws and ordinances of the city regulating pawnbrokers. A refusal or neglect to comply in any respect with the provisions of this section, on the part of any pawnbroker, his clerk or clerks, shall be deemed a misdemeanor, and punishable as such.

Id.; Suppression of gaming and other houses.

Sec. 318. If any member of the police force or if any two or more householders shall report in writing, under his or their signature, to the chief of police or to a deputy chief of police, that there are good grounds (and stating the same) for believing any house, room or premises within the said city to be kept or used as a common gambling house, common gaming room or common gaming premises, for therein playing for wagers of money at any game of chance, or to be kept or used for lewd and obscene purposes or amusements, or the deposit or sale of lottery tickets or lottery policies, it shall be lawful for the chief of police or a deputy chief of police to authorize, in writing, any member or members of the police force to enter the same, who may forthwith arrest all persons there found offending against law, but none others, and seize all implements of gaming or lottery tickets or lottery policies, and convey any person so arrested before a magistrate and bring the articles so seized to the office of the property clerk. It shall be the duty of the said chief of police or deputy chief of police to cause such arrested person to be rigorously prosecuted and such articles seized to be destroyed,

as the orders, rules and regulations of the police board shall direct.

Rules and regulations as to navigable waters within the city limits.

Sec. 319. It shall be the duty of the board to provide and enforce proper rules and regulations for the safety of passengers on excursion steamers, yachts and all craft taking part in regattas or races, whether as observers or participants, in the navigable waters embraced within the corporate limits of the city and to preserve the public peace and prevent undue interference with or interruption of such regattas and races. Such rules and regulations when so adopted shall be duly published in the public newspapers and any willful violation of the same by any person shall subject the offender to the penalties of a misdemeanor and if the holder of a license from the city to a forfeiture thereof.

Police board. To furnish station houses, etc., and fix boundaries of precincts. Headquarters.

Sec. 320. The police board shall from time to time, with the authority of the municipal assembly, establish, provide and furnish stations and station houses, or sub-stations and substation houses, at least one to each precinct, for the accommodation thereat of members of the police force, and as places of temporary detention for persons arrested and property taken within the precinct; and shall also provide and furnish such business accommodations, apparatus and articles and provide for the care thereof, as shall be necessary for the department of police and the transaction of the business of the department. The said police board is hereby authorized and empowered to furnish horses and wagons, to be known as patrol wagons, which said horses and wagons shall be under the custody, control and care of said police department, for the exclusive use thereof. The board of estimate and apportionment and the municipal assembly are directed to appropriate a sufficient sum of money in each and every year, for the purpose of furnishing such horses, wagons and apparatus connected therewith, and the maintenance thereof, and for the other purposes authorized by this section. The number and boundaries of the precincts shall be fixed by the police board. There shall be one headquarters or central station, established and located by said police board in each borough into which the city of New York is divided by this act. A deputy chief of police shall be assigned to duty by the police board at police headquarters in the borough of Brooklyn, and, in the discretion of the police board, a deputy chief of police may be assigned to duty at police headquarters in each of the other boroughs. The said police board shall apply to and use for the purposes mentioned in this section the property and premises which shall come into their possesion, or under their control, by virtue of section 275 of this act, so far as suitable for the purpose, in their judgment, and available therefor.

Id. To provide accommodations for detention of witnesses.

Sec. 321. The police board shall, where not otherwise provided by law, and as authorized by the municipal assembly, provide suitable accommodations and supplies for the detention of witnesses who are unable to furnish security for their appearance in criminal proceedings, other than children actually or apparently under the age of 16 years, to be called the house for the detention of witnesses, and such accommodation shall be in premises other than those employed for the confinement of persons charged with crime, fraud or disorderly conduct. And it shall be the duty of all magistrates, when committing witnesses in default of bail, to commit them to such house for detention of witnesses. The board of estimate and apportionment and the municipal assembly, shall in each and every year appropriate a sufficient sum of money to defray the expenses authorized by this section. And said police board shall apply to and use for such purposes the property and premises which shall come into their possession or under their control by section 275 of this act, so far as the same may be available, and, in their judgment, suitable therefor.

Id. To provide lodgings for vagrants, etc.

Sec. 322. It shall be the duty of said police board and it is hereby empowered to provide for the lodging of vagrants and indigent persons so far as such duty is not by law imposed on some other department of the city of New York.

Id. May maintain and operate telegraph and telephone lines, and use same in assisting department of health.

Sec. 323. The police board shall have power to erect, operate, supply and maintain, under the general laws of the state relating to telegraphs, all such lines of telegraph and telephone to and between such places in the city as for the purposes and business of the police the board shall deem necessary. The police board may procure all instruments, fixtures, property and materials for the purpose above mentioned, and control the same, but the cost thereof shall be chargeable to general expenses of police. The police board is hereby permitted to use the said telegraph and telephone lines to aid it in facilitating the operations of the department of health, and when so used, the expense thereof shall be charged to the said department of health.

Id. May use boats; establish mounted patrol, sell old property, etc.

Sec. 324. In the performance of police service in any precinct or precincts, comprising waters of the harbor, the police board may procure and use and employ such rowboats, steamboats and boats propelled by other power as shall be deemed necessary and proper. In rural or sparsely inhabited precincts it may establish a mounted patrol and procure and use and employ so many horses and equipments as shall be requisite for the purpose; and it shall procure and cause to be used teams and vehicles to transport prisoners, supplies and property, whenever the use of teams and vehicles for such purposes shall be proper and tend to preserve the public peace and decency. The police board may sell and dispose of, in accordance with law, any personal property owned or used in the department, whenever such property shall have become old and unfit and shall not be required for service, and it shall have authority to detail and employ patrolmen in any duty or service, other than patrol duty, which may be necessary and proper to enable the department to exercise the powers and perform the duties and business imposed and required by law.

Applications for medical attendance. Registered physicians.

Sec. 325. Upon the application of any person residing within the precinct, it shall be the duty of the captain or other officer at the desk to register in a book kept open for that purpose, the name and address of any person desiring or needing medical attendance, with the name and address of the person making such application, and without delay to select and notify of such application one from the list of physicians who have registered in said precinct as thereby pledging themselves to respond to any call for medical attendance, and who have been certified by the registrar of vital statistics of the department of health as being in good and regular standing. It shall be the duty of the captain or other officer at the desk, in the absence of any expressed preference by the applicant, to select and notify, from the list of physicans thus registered, the name of the physician residing nearest to the residence of said patient in whose behalf application is made.

Compensation of registered physician. Certificate, etc.

Sec. 326. It shall be the duty of the captain, sergeant or other officer at the desk, in such police precinct as before specified, upon registry of any application as described in the preceding section, immediately to detail an officer whose duty it shall be to call upon such physician without delay, and to conduct him to the residence of the patient, also to verify by personal inspection or inquiry, the name and address of such patient as registered by his superior officer. Every officer thus detailed as messenger shall be furnished with a blank certificate, upon which the name and address of the physician responding to the call, the name and address of the patient attended and the date and hour of the visit shall be written by him after he has conducted the physician to the patient's residence and verified the genuineness of the application. Such certificate shall be signed by him and given to the physician, and shall specify upon its face that the physician therein named is entitled to the sum of three dollars from the public funds, upon presentation thereof to the proper officer, and endorsement thereof in writing of the name of the captain of the precinct. But it shall be the duty of the physician making such visit to present such certificate to the patient or his or her agent or attendant, and to request payment of the said sum specified; and in case of such payment being made, said physician shall surrender such certificate to the person or persons making it, and it shall cease to be a claim upon the public treasury.

In default of the immediate payment of the said fee specified in the said certificate, by the patient or his or her agent or attendant, it shall be the duty of the captain of the police precinct in which the visit was made, to indorse it with his name; and thus indorsed it shall be the duty of the cashier of the department of health to pay at sight the fee aforesaid, and to enter the payment in a book provided for that purpose and take up the certificate. And all certificates thus redeemed shall be valid debts to the amount therein named, against the patients therein named, or their guardians, which the said department may order collected by due process of law, provided that no prosecution shall be instituted in cases where it is satisfactorily shown that the patient is without sufficient means for the payment thereof.

Physicians to report to the department of health.

Sec. 327. It shall be the duty of every physician thus called to the medical assistance of any person within the police precinct in which he is registered, to transmit to the registrar of the department of health, within twenty-four hours after the call shall have been answered, a full and accurate statistical exhibit of the case, specifying therein the age and sex and the employment, profession or business of the patient, the nature of the disease, the hour of the attack, when practicable, the date and the police

precinct and ward in which the case occurred; the same shall be signed with the full name and address of the physician rendering it, but the name and address of the patient shall always be omitted. And it shall be the duty of the department of health to provide all physicians thus registered for night service with appropriate blanks for the said purpose, upon their application therefor.

Nearest physician to be called. Penalty for refusal to attend.

Sec. 328. Any policeman who shall be detailed as messenger, according to the provisions hereinbefore specified, shall, in the absence of preference expressed in the application, call the physician nearest and most convenient to the patient's residence, or in the absence or refusal from any cause of the latter, the physician next nearest, and so on. And there shall be no delay or waiting for such physician to return; and any of the force neglecting to comply with this provision shall be subject to trial and fine, or dismissal from service, by the police board, in the same manner as for other offenses cognizable by the said body.

And any physician thus registering who shall twice refuse or neglect, without reasonable excuse, to answer a call made according to the provisions of the three preceding sections, shall be subject to have his name erased from the list, upon proper evidence thereof, submitted to an executive officer, who shall be appointed by the registrar of vital statistics of the department of health, and shall be under his immediate supervision.

List of registered physicians to be posted.

Sec. 329. The captains of the several police precincts shall cause the names and addresses of such physicians as have been duly certified by the registrar of vital statistics to be plainly and legibly written or printed on a bulletin provided for that purpose, which bulletin shall be placed at a convenient point near the captain's desk, and kept open to the inspection of all persons within the precinct desiring to see the same. They may, if in their judgment it shall be necessary to the public convenience, cause the bulletins of physicians herein specified to be posted in the hotels and district telegraph offices within their respective precincts, but any applicant applying at such hotels or telegraph offices, or desiring the services of any messenger other than a member of the police force detailed for that purpose, shall employ such messenger at his own expense, and shall be liable for any expenses incurred in communicating with the police precinct.

Hours of service of registered physicians.

Sec. 330. The period during which the aforesaid physicians shall be held subject to call shall be between the hours of ten in the evening and seven in the morning, from October first to March thirty-first, inclusive, and between the hours of eleven in the evening and six in the morning, from April first to September thirtieth, inclusive.

Stolen property. Property clerk; employment of and duties.

Sec. 331. The police board shall employ some person as clerk, who shall be designated property clerk, to take charge of all property alleged to be stolen or embezzled, and which may be brought into the police office, and all property taken from the person of a prisoner, and all property or money alleged or supposed to have been feloniously obtained, or which shall be lost or abandoned, and which shall be taken into the custody of any member of the police force or criminal court in the city of New York, or which shall come into the custody of any magistrate or officer, shall be, by such member or magistrate, or by order of said court, given into the custody of and kept by the said property clerk. All such property and money shall be described and registered by said property clerk in a book kept for that purpose, which shall contain the name of the owner or claimant if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the same, a description thereof, the names of all claimants thereto, and any final disposition of such property or money.

The said police board may prescribe regulations in regard to the duties of the clerk so designated, and require and take security for the faithful performance of the duties imposed by this section, but all animals strayed, lost or stolen, which shall come into the possession of the said property clerk shall by him be transferred and sent to the public pound, in said city, anything herein contained to the contrary notwithstanding.

Id. Return of property to person accused.

Sec. 332. Whenever property or money taken from any person arrested shall be alleged to have been feloniously obtained, or to be the proceeds of crime, and brought, with all ascertained claimants thereof, and the person arrested, before some magistrate for adjudication, and the magistrate shall be then and there satisfied from evidence that the person arrested is innocent of the offense alleged, and that the property rightfully belongs to him, then said magistrate may thereupon, in writing order such property or money to be returned, and the property clerk, if he have it, to deliver such property or money to the accused person himself, and not to any attorney, agent, or clerk of said accused person.

Id. Claim to by another person.

Sec. 333. If any claim to the ownership of such property or money shall be made on oath before the magistrate, by or in behalf of any other persons than the person arrested, and the said accused person shall be held for trial or examination, such property or money shall remain in the custody of the property clerk until the discharge or conviction of the person accused and until lawfully disposed of.

Unclaimed, lost, stolen, etc., property, to be registered and advertised.

Sec. 334. All property or money taken on suspicion of having been feloniously obtained, or of being the proceeds of crime, and for which there is no other claimant than the person from whom such property was taken, and all lost property coming into the possession of any member of the said police force, and all property and money taken from pawnbrokers as the proceeds of crime, or by any such member from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves, shall be transmitted as soon as practicable to the property clerk, to be registered and advertised in the City Record for the benefit of all persons interested, and for the information of the public, as to the amount and disposition of the property so taken into custody by the police.

Id. To be sold if unclaimed.

Sec. 335. If the property stolen or embezzled be not claimed by the owner before the expiration of six months from the conviction of a person for stealing or embezzling it, the officer having it in his custody must, on payment of the necessary expenses incurred in its preservation, deliver the same to the property clerk. The property so delivered to said property clerk, and all such other property, securities, moneys, things, or choses in action, that shall remain in the custody of the property clerk for the period of six months without any lawful claimant thereto, after having been advertised in the City Record for the period of ten days, may be sold at public auction in a suitable room to be designated for such purpose, and the proceeds of such sale shall be paid into the police pension fund. No property shall be delivered to the property clerk or at the central office of the police department, except as provided by law.

Stolen property desired as evidence in criminal court.

Sec. 336. If any property or money placed in the custody of the property clerk shall be desired as evidence in any police or other criminal court, such property shall be delivered to any officer who shall present an order to that effect from such court. Such property, however, shall not be retained in said court, but shall be returned to such property clerk to be disposed of according to the previous provisions of this chapter.

Police Force. Arrests without warrant.

Sec. 337. The several members of the police force shall have power and authority to immediately arrest, without warrant, and to take into custody, any person who shall commit or threaten or attempt to commit, in the presence of such member, or within his view, any breach of the peace or offense directly prohibited by act of the legislature, or by any ordinance made by lawful authority. The members of the police force shall possess in the city of New York and in every part of this state, all the common law and statutory powers of constables, except for the service of civil process, and any warrant for search or arrest issued by any magistrate of this state may be executed, in any part thereof, by any member of the police force, and all the provisions of sections 7, 8 and 9 of chapter 2, title 2, part 4 of the revised statutes in relation to the giving and taking of bail shall apply to this chapter.

Id. Returns of arrests. Accused to be taken before magistrate.

Sec. 338. In every case of arrest by any member of the police force, the same shall be made known immediately to the superior on duty in the precinct wherein the arrest was made by the person making the same; and it shall be the duty of the said superior, within twenty-four hours after such notice, to make written return thereof, according to the rules and regulations of the police department, with the name of the party arrested, the alleged offense, the time and place of arrest and the place of detention. Each member of the police force, under the penalty of ten days' fine, or dismissal from the force, at the discretion of the police board, shall, immediately upon an arrest, convey in person the offender before the nearest sitting magistrate, that he may be dealt with according to law. If the arrest is made during the hours that the magistrate does not regularly hold court, or if the magistrate is not holding court, such offender may be detained in a station house, or precinct thereof, until the next regular public sitting of the magistrate, and no longer, and shall then be conveyed without delay before the magistrate, to be dealt with according to law. And it shall be the duty of the said police board, from time to time, to provide suitable rules and regulations to prevent the undue detention of per-

sons arrested, which rules and regulations shall be as operative and binding as if herein specially enacted, subject, however, to the order of the court committing the person arrested.

Penalty for personating policeman, and for wilful neglect of police.

Sec. 339. It shall be a misdemeanor, punishable by imprisonment in the penitentiary for not less than one year, nor exceeding two years, or by a fine of not less than two hundred and fifty dollars, for any member of the police force to wilfully neglect to make any arrest for an offense against the law of the state, or any ordinance in force in the city of New York, or for any person not a member of the police force to falsely represent himself as being such a member, with a fraudulent design upon persons or property, or upon any day or time to have, use, wear or display, without specific authority from the police department, any uniform, shield, buttons, wreaths, numbers or other insignia or emblems in any wise resembling such as are worn by members of the police force; and the said police department is hereby authorized and directed, from time to time, to prescribe the uniform, shields, emblems, insignia and weapons to be worn, displayed and used, and to regulate the wearing, display and use thereof, by any and all persons, excepting marshals and the sheriff, his undersheriff and deputies authorized under the laws of this state, to make arrests for any cause in the city of New York.

Misdemeanor for persons not members of police force to serve criminal process.

Sec. 340. It shall be a misdemeanor for any person not being a regular member of the police established in any city of this state, or a member of the police force of the city of New York, or a constable of this state, or a police constable, or assistant police constable, or United States marshal, or other peace officer of this state, or a sheriff, or one of the usual general deputies of any sheriff of this state, to serve any criminal process within the said city.

Exemption from military and jury duty and civil process.

Sec. 341. No person holding office under this department shall be liable to military or jury duty, and no officer or patrolman while actually on duty shall be liable to arrest on civil process, or to service of subpena from civil courts.

Steam boilers. Inspection of. Not to be operated without certificate.

Sec. 342. Every owner, agent, or lessee of a steam boiler or boilers in use in the city of New York shall annually, and at such convenient times and in such manner and in such form as may by rules and regulations to be made therefor by the police board, be provided, report to the said department the location of each steam boiler or boilers, and thereupon, and as soon thereafter as practicable, the sanitary company or such member or members thereof as may be competent for the duty herein described, and may be detailed for such duty by the police board shall proceed to inspect such steam boilers, and all apparatus and appliances connected therewith; but no person shall be detailed for such duty except he be a pratical engineer, and the strength and security of each boiler shall be tested by atmospheric and hydrostatic pressure and the strength and security of each boiler or boilers so tested, shall have under the control of said sanitary company, such attachments, apparatus and appliances as may be necessary for the limitation of pressure, locked and secured in like manner as may be from time to time adopted by the United States inspectors of steam boilers or the secretary of the treasury, according to act of congress, passed July 25, 1866; and they shall limit the pressure of steam to be applied to or upon such boiler, certifying each inspection and such limit of pressure to the owner of the boiler inspected, and also to the engineer in charge of same, and no greater amount of steam or pressure than that certified in the case of any boiler shall be applied thereto.

In limiting the amount of pressure, wherever the boiler under test will bear the same the limit desired by the owner of the boiler shall be the one certified. Every owner, agent or lessee of a steam boiler or boilers in use in the city of New York shall, for the inspection and testing of such or each of such boilers, as provided for in this act, and upon receiving from the police department a certificate setting forth the location of the boiler inspected, the date of such inspection, the persons by whom the inspection was made, and the limit of steam pressure which shall be applied to or upon such boiler or each of such boilers, pay annually to the treasurer of the police department for each boiler, for the use of the police pension fund, the sum of $2, such certificate to continue in force for one year from the granting thereof when it shall expire, unless sooner revoked or suspended.

Such certificate may be renewed upon the payment of a like sum and like conditions, to be applied to a like purpose. It shall not be lawful for any person or persons, corporation or corporations, to have used or operated within the city of New York any steam boiler or boilers except for heating purposes and for railway locomotives, without having first had such boiler or boilers inspected or tested and procured for such boiler or each of such boilers so used or operated the certificate herein provided for.

The superintendent and inspectors of boilers, in the employ of the police department, in the City of Brooklyn, and the boiler inspectors in Long Island City, shall continue to discharge the duties heretofore devolved upon them, subject, however, to removal for cause, or when they are no longer needed.

Id. No person to use, or act as engineer for, without certificate.

Sec. 343. It shall not be lawful for any person or persons to operate or use any steam boiler to generate steam except for railway, locomotive engines, and for heating purposes in private dwellings, and boilers carrying not over ten pounds of steam and not over ten horse power, or to act as engineer for such purposes in the city of New York without having a certificate of qualification therefor from practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of the city of New York and to continue in force one year, unless sooner revoked or suspended. Such certificate may be revoked or suspended at any time by the police board upon the report of any two practical engineers, detailed as provided in this section, staing the grounds upon which such certificate should be revoked or suspended. Where such certificate shall have been revoked, as provided in this section, a like certificate shall not in any case be issued to the same person within six months from the date of the revocation of the former certificate held by such person.

Id. Record of inspections to be kept.

Sec. 344. A correct record in proper form shall be kept and preserved of all inspections of steam boilers made under the direction of the police board, and of the amount of steam or pressure allowed in each case, and in cases where any steam boiler or the apparatus or appliances connected therewith shall be deemed by the department, after inspection, to be insecure or dangerous, the department may prescribe such changes and alterations as may render such boilers, apparatus and appliances secure and devoid of danger. And in the meantime, and until such changes and alterations are made and such appliances attached, such boiler, apparatus and appliances may be taken under the control of the police department and all persons prevented from using the same, and in cases deemed necessary the appliances, apparatus or attachment for the limitaion of pressure may be taken under the control of the said police department.

Id. Over-pressure forbidden. Owner neglecting to report boiler.

Sec. 345. It shall not be lawful for any person or persons to apply or cause to be applied to any steam boiler a higher pressure of steam than that limited for the same in accordance with the provisions of this chapter and any person violating the provisions of the last preceding section shall be guilty of a misdemeanor. In case any owner of any steam boiler in the said city shall fail or omit to have the same reported for inspection, as provided by law, such boiler may be taken under the control of the police department and all persons prevented from using the same until it can be satisfactorily tested, as hereinbefore provided for, and the owner shall, in such case, be charged with the expense of so testing it.

Police board. Licenses for public exhibitions

Sec. 346. The police board is authorized to grant licenses for public exhibitions, in the manner and on the conditions provided in title 2 of chapter XXII of this act.

Id. Licenses to emigrant boarding-houses. Bond.

Sec. 347. The police board is authorized to grant licenses to persons keeping houses for the purpose of boarding emigrant passengers. But before granting any such license, said board shall require from such person or persons a bond satisfactory to it, with one or more sureties in the penal sum of $5,000, conditioned for the good behavior of such person or persons, and the proper conduct of all agents and runners in his or their employ. The police board may revoke any license for cause. The person or persons receiving such license shall pay the sum of $10 a year for each license.

Id. Licenses to bookers of emigrant passengers.

Sec. 348. The police board is authorized to grant licenses to persons exercising the vocation of booking emigrant passengers, or taking money for their inland fare, or for the transportation of their baggage. The persons receiving such licenses shall pay the sum of $25 a year for each license.

Id. Licenses to runners. Bonds.

Sec. 349. The police board may issue licenses authorizing the person or persons to whom the same are issued, upon any street, public highway, dock or pier, or in any park or square, in the city of New York, or upon any water adjacent thereto, over which said city has jurisdiction, to solicit patronage for any hotel, or inn, or passengers or patronage for any steamer, steamboat, ship, vessel or railroad, or for any person or corporation selling or offering for sale passage tickets, or

contracting or offering to contract for passage in any such steamer, steamboat, ship, vessel or railroad. Such license shall be for the period of one year from the date thereof, and every person receiving such license shall pay the sum of $20 therefor to the police board, and shall also give to said board a bond, with two good and sufficient sureties in the penalty of $300, conditioned for his good behavior, and the faithful observance by him of the provisions of this section. It shall be lawful for said board, upon an application made prior to the expiration of said license to renew and continue the same from year to year, provided that the applicant therefor continues in all respects qualified, as herein provided, to hold such license, and the said applicant shall, upon receiving such renewal, pay into the city treasury the further sum of $12.50 per annum as a renewal fee. Licenses and renewals may be revoked at any time by the said board for any cause satisfactory to it, such cause to be stated in writing to the person so removed at the time of the notice of his removal. No person shall receive any license under the provisions of this section who is not a citizen of the United States and a person of good general character; such fact to be proved to the satisfaction of the police board. Said board shall render to the controller of said city quarterly accounts of all moneys received by it under the provisions of this section, and the amount so received shall be paid over by said board into the city treasury.

Id. Special patrolmen for district telegraph companies.

Sec. 350. The police board is hereby authorized, in addition to the police force now authorized by law, to appoint a number of persons, not exceeding two hundred, who may be designated by any company which may be operating a system of signaling by telegraph to a central office for police assistance to act as special patrolmen in connection with such telegraphic system. And the persons so appointed shall, in and about such service, have all the powers possessed by the members of the regular force, except as this may be limited by the regulations of the police board and they shall be subject to the supervision and control of the police department. No person shall be appointed as such special patrolman who does not possess the qualifications which may be required by the police board for such special service; and the persons so appointed shall be subject, in case of emergency, to do duty as a part of the regular police force. The police board shall have power to revoke any such appointment or appointments at any time, and every person so appointed shall wear a badge and uniform, to be furnished by such company and approved by the police department. Such uniform shall be designated at the time of the first appointment under this section, and shall be the permanent uniform to be worn by said special police. The pay of such special patrolmen and all expenses connected with their service shall be wholly paid by such company or companies, and no expense or liabilty shall at any time be incurred or paid by the police department for, or by reason of, the services of the persons so as aforesaid appointed.

Police pension fund. Police board trustees of. Powers over.

Sec. 351. The police board shall be the trustees of the police pension fund hereinafter mentioned. The treasurer of said board shall be treasurer of the pension fund. He shall, before entering upon his duties as treasurer thereof, execute and deliver to said board, a bond in the penal sum of one hundred thousand dollars, to be approved by the controller of the city of New York, and conditioned for the faithful discharge of his duties, and that he shall pay over and account for all moneys and property which shall come to his hands as such treasurer. Such trustees shall have charge of and administer said funds, and from time to time invest the same, or any part thereof, as they shall deem most beneficial to said fund, and they are empowered to make all necessary contracts and take all necessary and proper actions and proceedings in the premises and to make payments from such fund of pensions granted in pursuance of this act, and also pensions now charged on said fund or any part thereof by or under existing laws, and said trustees shall be the legal successors of the trustee or trustees of the police life insurance fund, and of any police pension fund heretofore existing within the city of New York, as constitued by this act, including the pension fund of the park police, of the mayor, aldermen and commonalty of the city of New York, and the pension fund of the park police of the city of Brooklyn.

The said trustees may, and they are authorized and empowered, from time to time to establish such rules and regulations for the disposition, investment, preservation and administration of the police pension fund as they may deem best. They shall report in detail to the municipal assembly of the city of New York, annually, in the month of January, the condition of the police pension fund and the items of receipts and disbursements on account of the same. No payments whatever shall be allowed or made by said trustees from said fund as reward, gratuity or compensation to any person for salary or services rendered, to or for said trustees, except payment of legal expenses.

Id Funds to be paid trustees. Exemption from execution and process. False swearing in pension claims.

Sec. 352. The said police pension funds existing in said city of New York, as constituted by this act or in any part thereof when this act takes effect, and all moneys, bonds, investments, securities, revenues and incomes thereof, or belonging thereto, in whose hands soever or wherever the same may be, shall be paid over and delivered on demand to the said trustees of the pension fund as constituted by this act. The moneys, securities and effects of the police pension fund, and all pensions granted and payable from said fund shall be and are exempt from execution and from all process and proceedings to enjoin and recover the same by or on behalf of any creditor or person having or asserting any claims against, or debt or liability of, any pensioner of said fund. Every person who knowingly or willfully in any wise procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for pension or payment thereof shall in every such case forfeit a sum not exceeding two hundred and fifty dollars, to be sued for and recovered by and in the name of the said trustees, and when recovered, to be paid over to and thereupon become a part of the said police pension fund. Any person who shall willfully swear falsely in any oath or affirmation in obtaining or procuring any pension or payment thereof, under the provisions of this chapter, shall be guilty of perjury.

Id. Of what it consists.

Sec. 353. The said police pension fund shall consist of:

1. The capital, interest, income, dividends, cash, deposits, securities and credits formerly belonging to the police life insurance fund, and any police pension fund, existing as aforesaid with the addition thereto, from time to time, of

2. All forfeitures imposed by the police department from time to time, upon or against any member or members of the police force; and of

3. All rewards, fees, gifts, testimonials and emoluments that may be presented, paid or given to any member of the police force on account of police services, except such as have been or shall be allowed by the police department to be retained by the said members, and also all gifts or bequests which may be made to the said pension fund, or to the said police board as trustees thereof.

4. All lost, abandoned, unclaimed or stolen money remaining in the possession of the property clerk of the police department for the space of one year, and for which there shall be no lawful claimant, and all moneys arising from the sale by said property clerk of unclaimed, abandoned, lost or stolen property, and all moneys realized, derived or received from the sale of any condemned, unfit or unserviceable property belonging to or in the possession or under the control of the police department; and of

5. All moneys, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any member or members of the police force on account of absence for any cause, lost time, sickness or other disability, physical or mental, to be paid monthly by the treasurer of the police board to the police pension fund.

6. All moneys derived or received from any licenses or certificates granted or given under section 340 of this act.

7. Any sum out of or share of excise moneys derived from the granting of licenses or permission to sell strong or spirituous liquors, ale, wine or beer, or out of or of any moneys paid for taxes upon the business of trafficking in or selling or dealing in strong or spirituous liquors, ale, wine, or beer, which by law was, at the time of the taking effect of this act, applicable to or appropriated to any police pension fund then existing within the limits of the said city of New York, and such sum or share shall be paid in equal quarterly installments by the controller of the city of New York, or other person or officer having the legal custody thereof, to the treasurer of the police pension fund without any action or authority of or from any other official body or officer.

8. All moneys received or derived from the granting or issuing of permits to carry pistols in said city, and no permit shall be granted or issued to any person except upon the payment of two dollars and fifty cents in advance to the chief of police, nor shall any such permit continue in force for more than one year, when another may be issued from year to year, upon the payment of a like sum. The chief of police is authorized to grant and issue permits for such purpose in proper cases, upon the payment of the sum aforesaid, and all such moneys shall be paid over to the treasurer of the police pension fund.

9. All moneys derived or received from the granting or issuing the permits, or the giving of permission to give masked balls, entertainments or parties, or either of them, in the city of New York. No masquerade or fancy dress ball, or other entertainment, shall be held, given or permitted in the city of New York, except upon condition that a license fee therefor of not less than five dollars nor more than one hun-

dred dollars shall first be paid to the police department who are authorized to demand and receive the same for the benefit of the police pension fund.

10. A sum of money equal to but not greater than two per centum of the monthly pay, salary or compensation of each member of the police force, which sum shall be deducted monthly by the treasurer of the police board from the pay, salary, or compensation of each and every member of the police force, and the said treasurer of said board is hereby authorized, empowered and directed to deduct the said sum of money as aforesaid and forthwith to pay the same to the treasurer of the trustees of the police pension fund.

11. Any and all other moneys and funds which, but for the passage of this act, would have been part of or applicable to any police pension fund at the time this act takes effect or thereafter within the limits of the city of New York, as constituted by this act.

12. And any and all unexpended balances of appropriation or amounts estimated, levied, raised or appropriated for the payment of salaries or compensation of members of the police force within said city of New York remaining unexpended or unapplied after allowing all claims payable therefrom. And the police board may, and it is hereby authorized to pay over to the police pension fund such unexpended balances or any part thereof, at any time after the expiration of the year for which the same were made and appropriated, and after allowing sufficient to satisfy all claims payable therefrom as aforesaid.

13. In case the amount derived from the different sources mentioned and included in this section shall not be sufficient at any time to enable the police department to pay in full the pensions which have been or which may hereafter be granted, it shall be the duty of the police department each year at the time of making up the departmental estimate, to prepare a full and detailed statement of the assets of said police pension fund and the amount which is required to pay in full all such pensions and to present the same to the board of estimate and apportionment together with a statement of the amount of money required to enable the said board to pay the said pensions in full. It shall be the duty of said board of estimate and apportionment and the municipal assembly to make an appropriation sufficient to provide for such deficiency, and the amount so appropriated shall be included in the tax levy, and the controller shall pay over the money to the treasurer of the police pension fund.

14. And the said police board, as trustees of the police pension fund, is hereby authorized and empowered to take and hold, as trustees of such fund, any and all gifts or bequests which may be made to such fund.

Id. Pensions classified.

Sec. 354. The police board shall have power, in its discretion, to retire and dismiss from membership in the said police force, and thereupon to grant pensions to, as hereinafter provided, any member of the police force of said city who shall have become disabled, physically or mentally, or superannuated by age so as to be unfit for police duty, and to widows and orphans of such members to be paid from the police pension fund to the trustees thereof, as follows:

1. To the widow of any member of any police force within the limits of said city, who shall have been killed while in the actual performance of duty, or shall have died from the effects of any injury received whilst in the actual discharge of such duty, or who has died, or who shall hereafter die after ten years of service in any police force within the limits of the city of New York, or who shall have been retired upon a pension, if there be no child or children under eighteen years of age of any such member, the sum of not exceeding three hundred dollars per annum; but if there be any such child or children of such member under the age aforesaid, then the said sum may be divided between such widow, child or children in such proportions and in such manner as the said trustee may direct; provided, however, that the foregoing provision shall not be applicable to the widow, child or children of any member of any police force within the limits of said city who shall have been killed or died prior to the taking effect of this act, unless such widow, child or children would have been entitled to a pension under the laws in force at that time; and provided further that in no event shall such widow, child or children receive a greater pension than she, it or they would have been entitled to under the laws in force immediately prior to the taking effect of this act.

2. Subject to the like limitations, to any child or children under eighteen years of age of such member killed or dying as aforesaid or pensioner as aforesaid, but leaving no widow, or, if a widow, then after her death to such child or children being yet under eighteen years of age, a sum not exceeding three hundred dollars per annum.

3. Subject to the like limitations, to any such member of any such police force who, whilst in the actual performance of duty and by reason of the performance of such duty and without fault or misconduct on his part, shall have become permanently disabled, physically or mentally, so as to be unfitted to perform full police duty, a sum not to exceed one-half nor less than one-fourth of his rate of compensation per annum.

4. To any such member of the said police force who shall, after ten years, and less than twenty-five years membership in any such police force, become superannuated by age, permanently insane or mentally incapacitated, or disabled physically or mentally so as to be unfitted or unable to perform full police duty by reason of such disability or disease contracted without misconduct on his part, a sum not to exceed one-half nor less than one-fourth of his rate of compensation per annum.

Id. When members of force entitled to pension. Amount and duration.

Sec. 355. Any member of the police force being of the age of 55 years who has or shall have performed duty on any such police force as aforesaid for a period of twenty years or upward, upon his own application in writing may, or upon a certificate of so many of the police surgeons as the police board may require showing that a member of whatever age who has served twenty years is permanently disabled, physicaly or mentally, so as to be unfit for duty, shall, by order of the police board, be relieved and dismissed from said force and service and placed on the roll of the police pension fund, and awarded and granted to be paid from said pension fund an annual pension during his lifetime of a sum not less than one-half of the full salary or compensation of such member so retired; and any member of the police force who has, or shall have performed duty on any such force aforesaid, for a period of twenty-five years or upward, being of the age of 55 years, or any member of any such police force who is an honorably discharged soldier or sailor from the army and navy of the United States in the late civil war, who shall have reached the age of 60 years, or any such soldier or sailor who has performed duty on any such force for a period of twenty years, upon his own application in writing, provided there are no charges against him pending, must be relieved and dismissed from said force and service by the department and placed on the roll of the police pension fund and awarded and granted to be paid from said pension fund an annual pension during his lifetime of the sum of not less than one-half of the full salary or compensation of such member so retired; and the said department may in like manner relieve and dismiss from the service and place on the roll of the police pension fund, and grant and award a pension to any member of said force other than an honorably discharged soldier or sailor of the Mexican or late civil war who shall have reached the age of 60 years. The said police department shall award and grant pensions to the chief of police of $3,000; to each deputy chief of police, $2,500; to each inspector, $1,750; to each captain of the police, $1,375, and to each sergeant and detective sergeant of police hereafter relieved and dismissed from said force and service and placed on the roll of the pension fund, as hereinbefore provided, the sum of $1,000 per annum hereafter.

Pensions granted under this section shall be for the natural life of the pensioner, and shall not be revoked, repealed or diminished. In case any member shall have voluntarily left any such police force, and entered into the United States service, and served in the war of the rebellion, in the army or navy, and received an honorable discharge and afterward shall have been reinstated or reappointed in the police force, the time of his service in the army or navy shall be considered as continuous service in the police force.

Pensions may, in the discretion of the said police department be continued and paid to the widows and children, or, if no widow, to the child or children while under the age of eighteen years of any member of the police force to whom pensions shall have been granted; provided, however, that such pension to such widows or children, as the case may be, shall, in no instance, exceed six hundred dollars per annum, and the same may, in the discretion of the said board, be, from time to time, and at any time diminished, modified or revoked; provided, however, that no member of either of the police forces by this act consolidated, having a right to retire upon a pension at the time this act takes effect, shall be deprived of such right by reason of his remaining upon the police force, or of anything in this act contained.

In determining the terms of service of any member of the police force, service in the municipal and metropolitan force, and subsequently in the police force of the city of New York, as heretofore constituted, or in any police force within the limits of the city of New York, as hereby constituted, and thereafter in the police force created by this act, shall be counted and held to be service in the police force of the city of New York for all the purposes of this chapter.

Id. When certain pensions terminate. Equalizing existing pensions.

Sec. 356. Pensions to widows shall terminate when the widow shall re-marry, and pensions to children shall terminate whenever the children shall respectively marry or arrive at the

age of eighteen years. The police board may, in its discretion, order any pension granted, or any part thereof to cease, or be diminished, except those pensions as to which it is otherwise provided in this act, and as therein provided; but in all such cases the said police board shall file with the trustees of the police pension fund a written statement of the causes which determined the police board in ordering any pension so to cease or be diminished; and nothing herein, or in any other act contained shall render the granting of any pension obligatory on the police board or chargeable as a matter of right upon said police pension fund, except as herein provided. All existing pensions lawfully granted, payable out of the police life insurance fund, or any police pension fund of which the police board are made trustees by this chapter, and not lawfully revoked, are continued and shall be paid out of the police pension fund in pursuance of the limitations and provisions of this chapter.

Id. Certificate of disability. Department may make rules.

Sec. 357. No member of the police force shall be granted, awarded, or paid a pension on account of physical or mental disability or disease, unless a certificate of so many of the police surgeons as the police board may require, which shall set forth the cause, nature and extent of the disability, disease or injury of such member shall be filed in the department. And no member shall be retired upon pension or be pensioned, nor shall any pension be awarded, granted or paid except as provided in this chapter, any other law to the contrary notwithstanding. The said police department is authorized and empowered to make and adopt all such rules, orders and regulations as are or may be necessary to carry out and enforce the provisions of this act as to pensions.

Elections; powers transferred to police board. Board and offices abolished.

Sec. 358. All the rights, powers, authority, duties and obligations, immediately heretofore by law vested in or imposed upon the board of elections of the city of Brooklyn, or upon the commissioners or either of them comprising such board, or upon the police commissioners of the mayor, aldermen and commonalty of the city of New York, with respect to elections, shall forthwith by force of and as an effect of this chapter be transferred to and continue in and upon the police board created by this act, except in so far as the same shall be contrary to or inconsistent with the provisions of the election law and of this chapter. The board of elections of the city of Brooklyn and the tenure or term of office of the commissioners comprising such board and each of them are hereby abolished.

General bureau of elections. Control of. Branches.

Sec. 359. There shall be in the police department created by this chapter a bureau to be known and designated as the general bureau of elections of the city of New York, which shall be located at police headquarters in the borough of Manhattan. Branches of said general bureau shall be established as follows: One in the borough of The Bronx; one in the borough of Brooklyn, one in the borough of Richmond and one in the borough of Queens. Said police board shall have cognizance and control of said general bureau of elections, and of the branches thereof, and of the officers, employes, affairs and administration of said general bureau and its branches.

Id. Management. Superintendent.

Sec. 360. The affairs of said general bureau of elections and of said branches thereof, under and subject to such rules, regulations and orders as may, from time to time, be made by said police board, not inconsistent with the provisions of the election law or of this chapter, shall be managed, conducted and carried on by a person chosen and appointed by said police board who shall be known as the superintendent of elections of the city of New York; and such other officers, clerks, assistants and employees as may be selected or appointed as hereinafter provided.

Id. Appointment of chiefs of branches and assistants. Salaries of assistants. Detailing members of police force.

Sec. 361. Said police board shall also provide and appoint for each of the said branch bureaus a chief of such branch bureau and such clerks, or other assistants, and furnish such accommodations and supplies for the conduct and administration of said general bureau and its branches, and their duties and affairs as my be reasonably necessary, and shall fix the grade, rank, duties and salaries of such clerks and other assistants. Said police board shall pay said salaries in equal monthly installments. Said police board shall detail to said general bureau and its branches such patrolmen and other members of the police force as may be necessary from time to time for the faithful performance by said general bureau and its branches of their functions and duties.

Id. Officers' terms and salaries. Removals.

Sec. 362. The said superintendent of elections shall hold his office for five years, and shall receive a salary of $6,000 a year. The chiefs of the branch bureaus of elections of the boroughs of Kings, Richmond, The Bronx and Queens shall receive such salaries respectively as shall be fixed by the police board, not to exceed the sum of $4,000 a year for the chief of the branch bureau of elections in the borough of Brooklyn, $1,500 a year in the borough of The Bronx, and $1,500 a year in each of the boroughs of Richmond and Queens. Such salaries shall be paid by the police board in equal monthly installments. Said superintendent of elections and chiefs of branch bureaus shall each be removable at any time by the police board for cause.

Id. Employes continued in service.

Sec. 363. Until said police board shall otherwise provide, the clerks, assistant clerks, and other employes attached to or in the service of the board of elections of the City of Brooklyn when this chapter takes effect shall continue in the service and employment of the said general bureau of elections or said branches thereof, and they shall have the same salaries and perform the same duties as heretofore. But said police board shall have the power to fix the salaries, duties and rank of such clerks, assistant clerks and other employes.

Id. Appropriation for expenses of.

Sec. 364. The board of estimate and apportionment and the municipal assembly shall anually include in its final estimate and in its appropriations for the police department each year, such sums as may be necessary to pay the expenses of said general bureau of elections and branches thereof, including salaries and compensations of the said superintendent of elections, and the chiefs of the branch bureaus thereof, and of all other clerks and assistants therein. The sums so included in the said estimate shall also be included in the yearly tax levy upon the estates, real and personal, in the said city of New York.

Id. Superintendent the chief executive officer. Annual report.

Sec. 365. The superintendent of elections shall be the chief executive officer of the general bureau of elections and be chargeable with and responsible for the execution of the provisions of the election law and the rules and regulations of the police board relating to said general bureau or any of its branches. He shall render to the police board in each year a statement of the operations and expenses of the general bureau of elections and the branches thereof, together with an estimate of the expenses thereof for the ensuing year, and such recommendations in reference to the election law and the rules and regulations of the police board relating to the election bureau and as to elections as to him may seem advisable.

Id. Chiefs of branches. Duties. Location of offices.

Sec. 366. The chief of a branch bureau of elections shall perform such duties as now are or which may hereafter be prescribed by the election law, and the rules and regulations of the police board. He shall be subject to the orders and directions of the superintendent of elections under the rules and regulations of the said board, and his office shall be located at the police headquarters in the borough in which he is appointed to serve.

Id. Election expenses a charge against the city

Sec. 367. The legal compensation of all inspectors of election, poll clerks and ballot clerks, the expenses of registration and revision of registration required by law, and of the compilation and publication of the registry of electors, of all necessary notices, posters, maps, advertisements, registers, books, blanks and stationery, rent and cost of fitting up, warming, lighting, cleaning and safe keeping of all places of registration, revision of registration and polling places, and of all supplies of every kind and nature for and all other necessary expenses of all elections in the city of New York, as constituted by this act, or any territory included therein shall be a charge against the city of New York and shall, upon proper certificates and vouchers, be paid in the same manner as by law is provided for the payment of the other expenses of and charges against the said city. And the sums necessary for the purposes and payment specified in this section shall, by the board of estimate and apportionment and the municipal assembly, be included in the annual budget each year, and such sums shall also be included in the yearly tax levy upon the estates, real and personal, in the city of New York.

Id. Existing records and property transferred to custody of.

Sec. 368. All books, documents, papers, records and election appliances or appurtenances held or used by or under the control of the board of elections of the city of Brooklyn, or the board of police commissioners of the city of New York, or the bureau of elections in said city, or other officers having cognizance of the conduct of elections in the city of New York as constituted by this act shall be transferred to the care, custody and control of the general bureau of elections created by this chapter, but shall be in such care,

custody and control, subject to the orders of the police board.

Id. Superintendent to destroy registers of electors, etc.

Sec. 369. The superintendent of the general bureau of elections under the direction of the police board in the city of New York is hereby authorized and directed not less than two, years after each election, to sell or destroy all registers of electors, statements of canvass and tally sheets; provided that two copies of the register of electors for each election district, to be selected by the superintendent of the general bureau of elections, shall be excepted and preserved from such sale or destruction.

Id. Application of preceding section.

Sec. 370. The provisions of section 367 of this act shall apply to and include the material and records of former elections which may at any time be in the custody of said general bureau of elections or branches thereof, but shall not at any time apply to nor include any material or records of any election as to which any proceeding may at any time be pending in any court, and such material or records shall remain on file and be preserved.

Disposition of proceeds of sales.

Sec. 371. All moneys realized by sales under this chapter shall be paid over to the chamberlain of the city of New York to the credit of the general fund of said city.

CHAPTER IX.

BOROUGH OFFICERS, LOCAL BOARDS AND LOCAL IMPROVEMENTS.

Title 1. Borough officers.
2. Local boards.
3. Local improvements.

TITLE 1.

BOROUGH OFFICERS.

President; qualifications, term, election, salary.

Section 382. There shall be a president of each borough, who must be a resident thereof at the time of his election and remain a resident thereof throughout his term of office. The president and his successors shall be elected by the electors of the borough at all the elections whereat the mayors of the city of New York are respectively to be elected. The president shall hold his office for a term of four years, commencing at noon on the first day of January next after his election. The salary of the presidents of the boroughs of Manhattan, of the Bronx and of Brooklyn, respectively, shall be five thousand dollars a year, and the salary of the presidents of the boroughs of Queens and of Richmond, respectively, shall be three thousand dollars a year. A president of a borough may be removed by the mayor on charges, subject to the approval of the governor of the state of New York. Any vacancy in the office of president caused by removal from the borough, or otherwise, shall be filled for the unexpired term by an election to such vacancy made by a majority vote of all the members of the municipal assembly then in office representing said borough, and in case of any such vacancy it shall be the duty of the mayor forthwith to call such members in session for such an election and to preside thereat; but he shall not vote unless his vote be necessary to decide the election. In case of the disability of any president of the borough caused by protracted illness there shall be elected in the same manner as for a vacancy a president of the borough pro tempore, who shall act until the president is able to perform the duties of his office.

President. Powers and duties.

Sec. 383. A president of a borough shall, by virtue of his office, be a member of the local board of every district of local improvements in his borough, and chairman thereof, entitled to preside at its meetings and to vote as any other member, but he shall not have the power of veto. He shall have an office in such hall or public building of the borough as the municipal assembly may by resolution direct. He shall have power to appoint a secretary and other assistants and clerks, if provision be made therefor by the board of estimate and apportionment and the municipal assembly and within the proper appropriation, to fix their salaries. The said secretary, assistants and clerks shall hold office at the pleasure of the president.

President to call meetings of local board.

Sec. 384. A president of the borough shall call all meetings of the various local boards of the borough, and shall give such notice thereof to the members as the ordinances of the municipal assembly may require. And he shall certify all resolutions, proceedings and determinations of the local boards of the districts of local improvements in his borough.

Halls or buildings to be located in each borough.

Sec. 385. There may be when prescribed by this act a hall or public building or buildings in each borough, at which may be stationed deputies of such of the various administrative departments of the city government, as may be authorized by the board of public improvements, for the greater convenience of the people of the city in the discharge of the duties thereof, provided such deputies or divisions shall be in all things as much a part of each department respectively, and as fully under the head thereof, as if the administrative force of said department were seated wholly in one building.

TITLE 2.

LOCAL BOARDS,

Districts of local improvements.

Sec. 390. For the purposes of local improvements the territory of the city of New York is hereby divided into certain districts of local improvements. The districts so constituted shall be named or numbered or otherwise distinguished by the municipal assembly. As first constituted by this act there shall be twenty-two districts of local improvements which shall together comprise all of the territory by this act consolidated into the city of New York. The territory in each of the senatorial districts of the state of New York situated in whole or in part within the limits of the city of New York, as constituted by this act, as such districts are divided by the constitution of the state of New York in force January 1, 1895, and to the extent that they are within the limits of said city, and as therein bounded and described, shall constitute a separate district of local improvements, that shall be bounded and described in the same terms as is the same territory when contained in a senate district, as aforesaid. The municipal assembly shall, whenever necessary, supplement and complete the description of the boundaries of any district.

The local board how constituted, jurisdiction.

Sec. 391. There shall be in each and every district of local improvements a board of local improvements to be known and described as "the local board," to be intrusted with the powers by this act prescribed. The jurisdiction of each local board shall be confined to the district for which it is constituted and to those subjects or matters the costs and expenses whereof are in whole or in part a charge upon the people or property of the district or a part thereof, except so far as by this act jurisdiction may otherwise be given over matters of local administration within such district. Each local board shall consist of the president of the borough wherein the district is situated, by virtue of his office, and of each member of the municipal assembly, who is a resident of such local improvement district, by virtue of his office and during his term, as such member. Removal from the district shall vacate their offices as members of the said local board. The members of a local board shall serve as such members without compensation. If any proposed local improvement specified in section 393 of this act shall embrace the territory or affect the property of more than one district of local improvements, the members of the local boards of all the districts so affected shall, for all proceedings in the matter of such improvement, constitute the local board for the purposes thereof, and its proceedings shall in all respects conform to the provisions of this act that regulate the proceedings of any other local board.

Id. Procedure.

Sec. 392. The action of a local board shall be by resolution, subject to the procedure governing resolutions passed by the municipal assembly, and conformably thereto, save that they need not be submitted to the mayor of the city of New York for his approval.

Id. Powers.

Sec. 393. A local board, subject to the restrictions provided by this act, shall have power in all cases where the cost of the improvement is to be met in whole or in part by assessments upon the property benefited, to recommend that proceedings be initiated to open, close, extend, widen, grade, pave, regrade, repave and repair the streets, avenues and public places, and to construct lateral sewers within the district; to flag or reflag, curb or recurb the sidewalks, and to relay crosswalks on such streets and avenues; to set or to reset street lamps; and to provide signs designating the names of the streets. A local board shall have power to hear complaints of nuisances in streets or avenues, or against disorderly houses, drinking saloons conducted without observance of the licenses therefor, gambling houses or any other places or congregations violative of good order or of the laws of this state, or other matters or things concerning the peace, comfort, order and good government respecting any neighborhood within the district, or concerning the condition of the poor within the district, and to pass such resolutions concerning the same as may not be inconsistent with the powers of the municpal assembly or of the respective administrative departments of the city of New York, and to aid such municipal assembly and departments in the discharge of their duties respecting the good government of the said district.

Id. Meetings; secretary; quorum.

Sec. 394. Meetings of each local board shall be held at the main hall or public building of the borough. It shall be the duty of the president to call such meetings whenever in his opinion the public business shall require, or whenever he shall receive the written request of any three members of a local board.

The secretary of the president of the borough shall act as the secretary of each local board, in the borough, without additional compensation. He shall keep a record of all resolutions, proceedings and determinations of each local board, and shall file the same in the office of the president of the borough, and he shall discharge such other duties as may be prescribed by this act, or by the municipal assembly, or by the president of the borough, or by a local board. The president of a local board and one other member thereof shall constitute a quorum for the transaction of business at any meeting duly called called.

TITLE 3.

LOCAL IMPROVEMENTS.

President. Duty on receipt of petition.

Sec. 400. When a petition for a local improvement within the jurisdiction of a local board has been received by the president of the borough, it shall be his duty to appoint a time for a meeting of the proper local board, not more than fifteen days thereafter, at which meeting such petition will by him be submitted to the said local board and he shall thereupon cause a notice to be published in the City Record, that such petition has been presented to him and is on file in his office for inspection, and of the time when and of the place where there will be a meeting of the local board at which such petition will be submitted by him, to said board, which time shall not be less than ten days after the publication of the notice.

Local board, proceedings after petition.

Sec. 401. The local board, after the submission of such petition and consideration of the same, may then, as the petition shall ask, recommend that proceeds be initiated to open, to close, to extend, to widen, to regulate, to grade, to curb, to gutter to flag, and to pave streets, to lay crosswalks and to construct lateral sewers within its districts, and generally for such other improvements in and about such streets within its district as the public wants and convenience of the district shall require.

Id. To transmit resolution; further procedure; expenses to be a lien.

Sec. 402. If the local board shall by resolution decide to recommend that proceedings be initiated for a local improvement within its jurisdiction, it shall thereupon, forthwith, transmit a copy of such resolution to the board of public improvements. Said board shall promptly consider such resolution, and if, in its opinion, the work proposed ought to be proceeded with, it shall take such steps in regard thereto as are in this act provided in the cases, where public works are proposed and initiated by said board of public improvements. The expense of all such improvements shall be assessed and be a lien on the property benefited thereby in proportion to the amount of said benefit, and in no case shall extend beyond the limits of said district.

Local boards, power to flag sidewalks, etc.

Sec. 403. A local board shall have the power to cause the flagging or reflagging of sidewalks laying or relaying of croswalks, fencing vacant lots, digging down lots or filling in sunken lots within its district, by resolution approved by the board of public improvements. When such public work or improvement shall have been duly authorized, the board of public improvements shall direct the proper department to proceed forthwith in the execution thereof, as in cases where public works are proposed and initiated by said board of public improvements.

Construction of this title.

Sec. 404. Nothing in this title contained shall be construed to in any way limit the power of the board of public improvements or of the municipal assembly, or of the board of public improvements and the municipal assembly conjointly, in authorizing any public improvement, nor shall anything herein contained be construed to authorize any local board to incur any expenditures other than authorized by the board of estimate and apportionment.

CHAPTER X.

THE BOARD OF PUBLIC IMPROVEMENTS.

Title 1. Board of public improvements.
2. Map or plan of the city of New York; map of sewer system and sewer districts.
3. General provisions relating to departments.
4. Department of water supply.
5. Department of highways.
6. Department of street cleaning.
7. Department of sewers.
8. Department of public buildings, lighting and supplies.
9. Department of bridges.

TITLE 1.

BOARD OF PUBLIC IMPROVEMENTS.

Board of public improvements; how constituted.

Sec. 410. There shall be in the city of New York a board of public improvements, to consist of the president of said board, the mayor, the corporation counsel, the controller, the commissioner of water supply the commisioner of highways, the commissioner of street cleaning, the commissioner of sewers, the commissioner of public buildings, lighting and supplies, the commissioner of bridges and the presidents of the several boroughs, by virtue of their respective offices. The mayor, the corporation counsel, the controller, and the presidents of the several boroughs shall not be counted as members of the board for the purpose of ascertaining if a quorum be present. No president of a borough shall have a vote in said board except upon matters relating exclusively to the borough of which he is president.

Id. President; salary; powers.

Sec. 411. The president of the board of public improvements shall be appointed by the mayor and hold his office, as provided in chapter IV of this act. His salary shall be $8,000 a year. He shall be a member of the board of revision of assessments.

The said president shall have power to designate one of the members of said board as vice president.

The president, or in his absence, the vice president, shall preside at all meetings of said board, shall certify all proceedings thereof, except as otherwise provided, and shall cause all reports required by said board to be made from the departments without delay.

The president shall have power, in all cases of difference in the said board concerning the disposition of any public work, to assign such work to one or more of the departments for execution; and in case there shall arise any disagreement between the different departments represented on said board, other than the department of finance and the law department, or between contractors respectively undertaking work pursuant to contracts let by the different departments, the said president shall decide such matter and his decision shall be final until and unless such decision shall be reversed by the board of public improvements. In case of the inability of the president to decide any of such matters by reason of sickness, or absence from the city, for a period not less than three days, the mayor shall have power to decide the same.

The president shall have the power to vote, but his approval shall not be necessary for the validity of any resolution of the said board.

Id. Secretary; office; meetings; quorum, etc.

Sec. 412. The president of said board shall have power to appoint and remove a secretary of the board, and such other clerks as may be necessary. The secretary shall attend its meetings, keep and preserve a record of its proceedings, and perform such other clerical duties as the board or the president may from time to time direct. The salary of the secretary and of all clerks within the proper appropriation, shall be fixed and regulated by the said board.

The municipal assembly shall make provision for an office and a meeting room, in the borough of Manhattan, for said board of public improvements. The said board shall meet, once a week at least, for the consideration of public business, and the president of the board may call meetings of the said board whenever he may deem it necessary. A majority of the members of the board who, as heretofore provided, are to be counted for the purpose of ascertaining if a quorum be present, shall form a quorum for the transaction of business, but final action shall not be had in any matter specially concerning the department of any commissioner not in attendance, unless such matter has theretofore been made a special order of the day. The said board shall from time to time furnish to the municipal assembly such information and data as may be required of it, or as it may deem proper or necessary to impart, and shall make an annual report to the mayor.

Authorizing public improvements.

Sec. 413. Except as herein otherwise provided, any public work or improvement within the cognizance and control of any one or more of the departments of the commissioners who constitute the board of public improvements, that may be the subject of a contract, must first be duly authorized and approved by a resolution of the board of public improvements and an ordinance or resolution of the municipal assembly. But no public work or improvement, involving an assessment for benefit shall be so authorized until there has been presented to the board of public improvements an estimate in writing, in such detail as the board may direct, of the cost of the proposed work or improvement, and a statement of the assessed value, according to the last preceding tax roll, of the real estate included within the probable area of assessment. Any ordinance or resolution of the municipal assembly approving any public work or improvement shall be subject to the power of the mayor over resolutions or ordinances of the municipal assembly, which ordinance or resolution, together with a statement of the final disposition thereof, duly certified by the city clerk, shall be transmitted to the board of public improvements. When a public work or improvement shall have been duly authorized, as aforesaid, then, but not until then, it shall be lawful for the proper department to proceed in the execution thereof, in accordance with the

provisions and subject to the limitations of this act. Nothing herein contained shall be construed as conferring on the board of public improvements any of the exclusive powers vested by law in any of the said commissioners in his department concerning the details of any work or improvement.

Municipal assembly; restriction on powers of.

Sec. 414. It shall not be lawful for the municipal assembly to enter directly into contract for any public work or improvement whatsoever.

When proposals to enter upon public work of any character falling within the jurisdiction of the various departments represented in the board of public improvements originate in the municipal assembly, before an ordinance or resolution authorizing the same or providing money therefor shall be adopted, a report must be had from the board of public improvements as to the desirability thereof. Said board shall report in as much detail as possible, and shall submit an approximate, and, whenever practicable, a detailed estimate of cost. If the report of the board of public improvements be favorable to the project, an ordinance or resolution authorizing the same may be passed in the usual manner; but, if the report of the board of public improvements be unfavorable, an ordinance or resolution authorizing the project shall be passed only by a vote of five-sixths of both houses of the municipal assembly and be approved by the mayor.

Board of public improvements; power with respect to certain subjects.

Section 415. The board of public improvements shall have power over the following subjects:

(1) The adoption of a map or plan for any part of the city of New York for which no final map or plan has been adopted.

(2) Acquiring title for the use of the public to land required for parks, streets, approaches to bridges and tunnels, sites or lands above or under water for bridges or tunnels.

(3) Acquiring title for the use of the public to lands, or easements therein, required for sewers, as provided in title 7 of this chapter.

(4) The approval of plans for the sewerage and drainage of the city of New York, devised and prepared by the president of said board and the commissioner of sewers.

(5) The construction, repairing and cleansing of sewers and underground drains.

(6) Repairs and renewal of pavements and readjusting the grade of streets in connection therewith.

(7) Water rents, superintendence of water supply of private water companies, contracts for water supply with private companies or other municipalities.

(8) Any public work for which money has been provided either in the tax levy or by the issue of bonds for the repairing of streets, the municipal assembly may designate the borough or boroughs in which the money obtained from the sale of such bonds shall be expended.

To prepare ordinances, etc.

Sec. 416. It shall be the duty of the board of public improvements to prepare and to recommend to the municipal assembly all ordinances and resolutions regulating the following matters:

(1) The laying of water pipes and the making of all attachments thereto, and also the extending, constructing and repairing of the water works.

(2) The regulating, grading, curbing, guttering, flagging and paving of streets, the laying of crosswalks, the constructing, reconstructing and repairing of streets and the making of all excavations therein for public purposes, and also prescribing the width of sidewalks, and regulating the manner of constructing and laying the same.

(3) Encroachments upon and obstructions in the city streets, and authorizing and requiring their removal.

(4) The use of the streets and sidewalks for signs, sign posts, awnings, awning posts, horse troughs, urinals, telegraph posts and other purposes

(5) The exhibition of advertisements or hand bills along the streets.

(6) The construction, repair and use of vaults, cisterns, areas, hydrants and pumps.

(7) The construction and repair of public markets.

(8) The preservation and protection of all or any of the works connected with the supplying of the city of New York with pure and wholesome water.

(9) The cleaning and sprinkling of streets, and the using of streets and sidewalks in building operations and for all other temporary or business purposes.

(10) The laying of gas pipes and electric wires underground, steam pipes, pneumatic tubes and the like, and the lighting of all public thoroughfares, places, bridges and buildings, the inspecting and testing of gas or electricity employed for light, heating and power, gas meters, electric meters, electric wires, the use and transmission of electricity for all purposes in, upon, across, over and under all streets and public buildings, and the opening of street surfaces for the business of manufacturing, using and selling electricity, gas, steam, or for the service of pneumatic tubes.

(11) The erecting, extending and repairing of public buildings, other than school houses, almshouses, penitentiaries and the police and fire station houses.

(12) The rates of fare on the railroad of the New York and Brooklyn bridge, and upon the roadways thereof, and upon any other bridge or bridges and the roadways thereof, where a fare is, or may be authorized by law, and for the safety of travel upon any and all of the bridges within the territory of the city and not included within any of the public parks thereof.

(13) The making of all contracts for public work or supplies, and agreements in relation thereto by which the city shall be liable to pay money; and such ordinances among other matters must provide, that the award, if any, must be made to the lowest bidder, unless the board of public improvements, by the vote of a majority of its members, of whom the mayor and the controller shall be two, shall determine that it is for the public interest that a bid other than the lowest should be accepted, and that no contract shall be made until the controller certifies thereon that the necessary funds are provided and applicable thereto.

Public improvement: further procedure.

Sec. 417. All proposed city ordinances regulating the public work specified in section 416 of this act must from time to time be adopted or prepared by said board of public improvements, and when approved by said board, such proposed ordinances duly certified shall be submitted to the municipal assembly. And the municipal assembly shall, without power of amendment, take such ordinance or ordinances into consideration, and shall either enact or reject the same, and if rejected, it or they shall be returned to the board of public improvements for further consideration. So far as may be possible in the first instance, and so far as the public business may permit, the ordinances regulating the matters provided for in section 416 of this act shall be submitted to the municipal assembly so as to afford an entire rule of municipal action upon each of the different subjects in said section described and specified.

Board of public improvements; power to prescribe rules, etc.

Sec. 418. The board of public improvements may prescribe rules, regulations or plans for the regulating, grading, paving, curbing and guttering of streets, avenues, roads and public places other than parks, and for the laying of crosswalks and sidewalks throughout the city.

Contracts for work or supplies.

Sec. 419. All contracts to be made or let for work to be done or supplies to be furnished, except as in this act otherwise provided, and all sales of personal property in the custody of the several departments or bureaus, shall be made by the appropriate heads of departments under such regulations as shall be established by ordinances and resolutions of the municipal assembly. Whenever any work is necessary to be done to complete or perfect a particular job, or any supply is needful for any particular purpose, which work and job is to be undertaken or supply furnished for the city of New York, and the several parts of the said work or supply shall, together, involve the expenditure of more than one thousand dollars, the same shall be by contract, under such regulations concerning it as shall be established by ordinance or resolution of the municipal assembly, excepting such works now in progress as are authorized by law or ordinance to be done otherwise than by contract, and, unless otherwise ordered, by a vote of three-fourths of the members elected to the municipal assembly; and all contracts shall be entered into by the appropriate heads of departments, and shall, except as herein otherwise provided, be founded on sealed bids or proposals, made in compliance with public notice, duly advertised in the City Record, and the corporation newspapers, said notice to be published at least ten days; if the head of a department shall not deem it for the interests of the city to reject all bids, he shall, without the consent or approval of any other department or officer of the city government, award the contract to the lowest bidder, unless the board of public improvements, by the vote of a majority of its members, of whom the mayor and the controller shall be two, shall determine that it is for the public interest that a bid other than the lowest should be accepted; the terms of such contract shall be settled by the corporation counsel as an act of preliminary specifications to the bid or proposal. The bidder whose bid is accepted shall give security for the faithful performance of his contract in the manner prescribed and required by ordinance; and the adequacy and sufficiency of this security shall, in addition to the justification and acknowledgment, be approved by the controller. All bids or proposals shall be publicly opened by the officer or officers advertising for the same and in the presence of the controller, but the opening of the bids shall not be postponed if the controller shall, after due notice, fail to attend. If the lowest bidder shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to his bid or proposal, or if he accepts but does not execute the con-

tract and give the proper security, it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, it shall be readvertised and relet by the head of the appropriate department in the manner in this section provided. No bid shall be accepted from, or contract awarded to, any person who is in arrears to the city of New York upon debt or contract, or who is a defaulter, as surety or otherwise, upon any obligation to the city. Every contract, when made and entered into, as before provided for, shall be executed in duplicate, and shall be filed in the department of finance, together with a copy of the resolution ordinance of the municipal assembly or of the resolution of the board of public improvements or copies of both, as the case may be, authorizing said work; such copies shall be so filed within five days after the contract shall have been duly executed by the contractor; a receipt for each payment, made on account of or in satisfaction of the same, shall be indorsed on the said contract by the party receiving the warrant, which warrant shall be only given to the person interested in such contract, or his authorized representative. No expenditure for work or supplies involving an amount for which no contract is required shall be made, except the necessity therefor be certified to by the head of the appropriate department, and the expenditure has been duly authorized and appropriated.

Proposals to be advertised; deposit to accompany bid.

Sec. 420. Whenever proposals for furnishing supplies or doing work are invited by advertisement by any department or officer, such department or officer is authorized and directed to require, as a condition precedent to the reception or consideration of any proposal, the deposit with such department or officer of a certified check upon one of the state or national banks of the said city, drawn to the order of the controller, or of money; such checks or money to accompany the proposal, to an amount not less than three nor more than five per cent. of the amount of the bond required by the department or officer for the faithful performance of the work proposed to be done or supplies to be furnished. Within three days after the decision as to whom the contract is to be awarded, the controller shall return all the deposits made to the persons making the same, except the deposit made by the bidder whose bid has been accepted; and if the said bidder whose bid has been accepted shall refuse or neglect, within five days after due notice that the contract has been awarded, to execute the same, the amount of deposit made by him shall be forfeited to and retained by the said city as liquidated damages for such neglect or refusal, and shall be paid into the sinking fund of the city, but if the said bidder shall execute the contract within the time aforesaid the amount of his deposit shall be returned to him.

Certificate of completion to be filed.

Sec. 421. It shall be the duty of each of the commissioners mentioned in section 410, of this act, having in charge any work, within five days after the acceptance of such work, to file with the controller a final certificate of the completion and acceptance thereof, signed by the chief engineer or head of his department. The filing of such certificate shall be presumptive evidence that such work has been completed according to contract. It shall also be the duty of such commissioner, in the case of work to be paid for in whole or in part by assessment for benefit, when such work shall have been completed and accepted, and all the expenses thereof which may be legally assessed shall have been ascertained, to execute a certificate of the total amount of all the cost and expenses which shall have been actually incurred by the city of New York on account of such work and forward the same to the board of assessors in accordance with section 946 of this act. Accompanying said certificate shall be a copy of the resolution or ordinance of the municipal assembly, or of the resolution of the board of public improvements, or copies of both, as the case may be, authorizing such work to be done, and also a copy of any resolution or ordinance, if any such has been passed, determining that any proportion of the cost and expense of such work shall be borne by the city of New York. The board of assessors shall, upon receiving such certificate, assess upon the property benefited, in the manner authorized by law, the amount of the certificate, of such proportions thereof as is authorized by law. The proceedings relative to levying, confirming and collecting any such assessments shall be in accordance with the provisions of chapter XVII of this act.

Power to assess for local improvements.

Sec. 422. In all cases where the board of public improvements or the municipal assembly, or the board of public improvements and the municipal assembly together, with or without the concurrence or approval of any other board or officer, are authorized to determine that a local improvement is to be made, the said board or the said municipal assembly, or both, as the case may be, shall determine whether any, and if any, what proportion, of the cost and expense thereof, shall be borne and paid by the city of New York, and the remainder of such cost and expense shall be assessed upon the property deemed to be benefited thereby; and the assessment shall be laid and confirmed and collected in accordance with the provisions of chapter XVII of this act.

The words "local improvement" as used in this section shall be construed to mean with respect to each borough of the city of New York any work the payment of which was, prior to the passage of this act, provided for by the laws in force in such borough, in whole or in part, by assessment upon the property deemed to be benefited thereby or the owners thereof, other than assessments which are confirmed by a court of record.

Controller to pay contractors.

Sec. 423. When a contract for a public improvement shall have been entered into and a certified copy thereof shall have been filed with the controller, in conformity with section 419 of this act, said controller is hereby authorized and directed to pay to the contractor or his assigns, from time to time as the work progresses, 70 per centum of the estimated value of the work actually done under said contract, until the same shall have been completed. The estimate of the value of any such work shall be signed by the surveyor and also by the chief engineer of the department having the matter in charge, and upon the final completion of any contract, and the filing of the final certificate of completion, the controller shall, within thirty days thereafter, or within thirty days after the expiration of the time within which, according to the terms of the contract, the city has to accept such work, pay to the contractor or his assigns, the balance of the amount due under said contract; provided, however, that the municipal assembly, upon the recommendation of the board of public improvements, may authorize contracts for asphalt or other pavements to be made, with a guaranty upon the part of the contractor for one or more years, with a provision for the retention of a percentage of the amount to be paid, which shall be paid within thirty days after the expiration of the guaranty, upon the filing of a certificate signed by the chief engineer of the department having the matter in charge that the terms of the contract have been complied with. The payments to be made by the controller pursuant to this section shall be made out of the "street improvement fund," if the cost and expense of said work are to be assessed in whole or in part upon property deemed to be benefited thereby. The amounts collected from any and all assessments for local improvements paid for out of such fund, together with all defaults and interest on the same, are to be paid into said fund.

It shall be the duty of, and lawful for the controller, when thereto authorized by the board of estimate and apportionment, to create and issue such additional amounts of the corporate stock of the city of New York as shall be necessary to provide for the cost and expense of such work, or such part thereof as is to be borne and paid by the city of New York; and the proceeds of the sale of such stock shall be paid into the street improvement fund.

Municipal assembly; further restrictions.

Sec 424. It shall not be lawful for the municipal assembly to release any contractor with the city or with any of the departments, boards, bureaus or officers thereof, from any fine or penalty incurred under his contract, save upon the unanimous recommendation of the board of public improvements. And it shall not be lawful for the municipal assembly to extend the time for the performance of any such contract save upon the unanimous recommendation of the board of public improvements.

Board of public improvements; further powers.

Sec. 425. The board of public improvements is authorized and empowered, in its discretion on the application, in writing, of the head of the fire department, to grant the said department location for apparatus houses in said department on any of the public property, streets or slips under the control and care of one or more of the commissioners who constitute said board; provided that the same are so located and constructed as in the judgment of the said board will not disfigure or mar the appearance of the same, nor interfere with the purpose of travel or public recreation, and if placed upon any street, avenue or slip, which shall not reduce the width of the same between the curbs for the purpose of travel at the place of such location to less than thirty feet on each side of said building.

Board of public improvements; general power.

Sec. 426. The said board of public improvements shall exercise such powers and perform such duties with respect to the whole territory embraced within the city of New York, as constituted by this act, as were heretofore vested in the board of street opening and improvements of the corporation known as the mayor, aldermen and commonalty of the city of New York, with respect to the territory included within that municipality, except so far as the same have been otherwise specifically and expressly conferred by this act. And the said board of public improvements shall exercise such other powers and perform such other duties as are vested in or cast upon it by any of the provisions of this act, or that may in accord-

ance with the law be devolved upon it by the municipal assembly.

TITLE 2.

THE MAP OR PLAN OF THE CITY OF NEW YORK, ESTABLISHING OF GRADES, CHANGES THEREIN, MAP OF SEWER SYSTEM, AND SEWER DISTRICTS.

The map of the city of New York.

Sec. 432. The map or plan of the territory lying within the borough of Manhattan, as heretofore laid out, adopted and established by the municipal authorities of the corporation known as the mayor, aldermen and commonalty of the city of New York, and the map or plan of so much of the territory lying within the borough of the Bronx, laid out by the commissioner of street improvements of the Twenty-third and Twenty-fourth wards, pursuant to chapter 545 of the laws of 1890, and the acts amendatory thereof, as heretofore duly laid out, adopted and established by such commissioner, with the concurrence and approval of the board of street opening and improvements, pursuant to law, and the map or plan of so much of the territory lying within the borough of Brooklyn, for which a permanent map or plan has been adopted, as heretofore duly laid out, adopted and established by the proper municipal authorities, and the map or plan of so much of the territory lying within the borough of Queens, for which a permanent map or plan has been adopted by the proper municipal authorities of Long Island City, as so laid out, adopted and established, showing the parks, streets, bridges and tunnels and approaches to bridges and tunnels, as heretofore laid out, adopted and established, pursuant to law, and the maps and profiles included in or accompanying the same, showing the grades of such streets duly fixed, adopted and established, shall constitute the map or plan of the city of New York to the extent and so far as they cover the territory lying within the said city, and as such is hereby laid out, adopted, established and confirmed, is to be deemed final and conclusive with respect to the location, width and grades of the streets shown thereon, so far as such location, width and grades have been heretofore duly adopted, except as herein otherwise provided.

Map to be completed.

Sec. 433. It shall be the duty of the president of the board of public improvements, subject to the limitations hereinafter provided, to prepare a map of so much of the territory embraced within the city of New York, as constituted by this act, of which a map or plan has not heretofore been finally established and adopted, as set forth in section 432 of this act locating and laying out all parks, streets, bridges, tunnels and approaches to bridges and tunnels, and indicating the width and grades of all such streets so located and laid out.

Whenever and as often as the president of the board of public improvements shall have completed the map of a part of the territory aforesaid, he shall report the same, together with the surveys, maps and profiles, showing the parks, streets, bridges, tunnels and approaches to bridges and tunnels, located and laid out by him, and the grades thereof, to the board of public improvements, for its concurrence and approval, subject, nevertheless, to such corrections or modifications as in the judgment of the majority of said board may be advisable; and the said board thereafter shall cause such map or plan, and such profiles, as finally adopted by it, to be certified by the president and secretary of said board, and filed as follows: One copy thereof in the office in which conveyances of real estate are required to be recorded in the county in which the territory shown upon such map is located; one copy thereof in the office of the corporation counsel, and one copy thereof in the office of the board of public improvements. Such map and profiles, when so adopted and filed, shall become a part of the map or plan of the city of New York, and shall be deemed to be final and conclusive with respect to the location, width and grades of the streets shown thereon, and the same shall not be subject to any further change or modification except as provided in section 436 of this act; provided, however, that the board of public improvements, within three months after the opening of a street, shall have the power to alter the grade of such street, and to alter the grades of intersecting streets, so far as it may be necessary to conform the same to the new grades of the street opened.

President may be required to complete map.

Sec. 434. The board of public improvements, or the municipal assembly, with the approval of the mayor, may at any time require the president of the board of public improvements to complete the map or plan of the whole or of a part of the territory for which the map or plan shall not at such time have been finally established and adopted, as specified in sections 432 and 433 of this act, and to report the same to the board of public improvements, within a fixed and specified time.

Grades established by user.

Sec. 435. Whenever any street in the city of New York shall have been used as such for upwards of twenty years without having the grade thereof established by law, the level or surface of such street as so used shall be deemed to be and to have been the grade thereof.

Authority to change the map or plan of the city or to change grades.

Sec. 436. The board of public improvements is authorized and empowered, whenever and as often as it may deem it for the public interest so to do, to, to initiate a change in the map or plan of the city of New York, so as to lay out new streets, bridges, tunnels, approaches to bridges and tunnels and parks, and to widen, straighten, extend, alter and close existing streets, and to change the grade of existing streets shown upon such map or plan, by publishing notice of its proposed action for ten days in the City Record and the corporation newspapers, and giving an opportunity for all persons interested in such change to be heard, at a time and place to be specified in such notice, such time to be not less than ten days after the first publication of such notice. After the due publication of such notice, and after hearing protests and objections, if any there be, against the proposed change, if the said board shall favor such change, notwithstanding such protests and objections, it shall transmit its resolution to that effect to the municipal assembly, together with the objections, if any, which have been made in writing, and filed with it, and a statement of its reasons for such determination.

If both houses of the municipal assembly concur in such resolution passed by the board of public improvements, by passing an ordinance adopting and approving the same by a two-thirds vote, and the same receives the approval of the mayor, such change in the map or plan of the city of New York, or in the grade of any street or streets shown thereon, shall be deemed to have been made. The board of public improvement is authorized and empowered without the concurrence of the municipal assembly, but with the approval of the mayor, to change the grades of bridges, tunnels and approaches to bridges and tunnels, and the location of approaches to bridges and tunnels.

Maps of city to be kept in office of corporation counsel and office of board of public improvements; maps showing changes where filed.

Sec. 437. The map or plan of the city of New York or a certified copy thereof, showing the streets and parks within the city of New York, as constituted by this act, shall be kept, one copy thereof in the office of the corporation counsel and one copy thereof in the office of the board of public improvements. Whenever the map or plan of the city of New York, as heretofore laid out, adopted, established and confirmed by this act, or as hereafter laid out, adopted and established, pursuant to this act, shall be changed, and whenever the grade of any street shown thereon shall be changed, the board of public improvements shall forthwith cause the maps and profiles, showing such change in the map or plan of the city of New York, or in the grade of a street or streets shown thereon, to be certified by the secretary of said board and filed as follows: one copy thereof in the office in which conveyances of real estate are required to be recorded in the county in which the territory shown upon said copy is located; one copy thereof in the office of the corporation counsel, and one copy thereof in the office of the board of public improvements.

Drainage and sewer system to be completed.

Sec. 438. It shall be the duty of the said president of the board of public improvements, together with the commissioner of sewers, and subject to the approval of the board of public improvements, to devise and prepare, so far as the same has not already been done, a plan for the proper sewerage and drainage of the whole of said city, for the purpose of thoroughly draining and carrying off water and other matter proper to be carried off by sewers. The said commissioner shall, so far as the same has not already been done, and subject to the like approval, lay out the said city into as many sewerage districts as he may deem necessary for the aforesaid purpose, and shall also determine and show, on suitable maps or plans, the location, cost, size and grade of each sewer and drain proposed for each of said districts, and the proposed alterations and improvements in existing sewers, and shall also determine and show, on said maps or plans, the contemplated depth of said sewers and drains below the present surface, and also below the established grades of the streets and avenues in each of said districts, and such other particulars as may be necessary for the purpose of exhibiting a complete plan of the proposed sewerage therein.

Drainage plan to be filed.

Sec. 439. Upon the completion of the map or plan for the drainage of any sewerage district and its approval by the board of public improvements, such map or plan shall be the permanent plan for the sewerage of such district; subject, however, to such subsequent modifications as may, in the opinion of the commissioner of sewers and the board of public improvements, become necessary in consequence of alterations made in the location or grade of any street or part thereof in said district, or for other reasons. Copies of such complete map or plan and of the maps

showing modifications therein shall be certified by the president and secretary of the board of public improvements and shall be filed as follows: One copy thereof in the office in which conveyances of real estate are required to be recorded in the county in which the territory shown upon said map is located; one copy thereof in the office of the corporation counsel, and one copy thereof in the office of the board of public improvements.

All sewers to be in accordance with general plan.

Sec. 440. It shall not be lawful hereafter to construct any sewer or drain in the city unless such sewer or drain shall be in accordance with the general plan, approved by the board of public improvements as aforesaid, for the sewerage of the particular district in which such sewer or drain is proposed to be constructed.

Raising of grade for drainage.

Sec. 441. Whenever the commissioner of sewers shall report to the board of public improvements that it is necessary to raise the grade of any street or streets for the proper sewerage of the sewer district in which such street or streets, or parts of streets, are situated, the said board is hereby authorized and empowered to change the grade of such street or streets, or parts of streets, so far as shall be necessary for the proper drainage thereof.

Power to mark boundaries and to make surveys.

Sec. 442. The president of the board of public improvements shall have power to mark any boundary line or lines of the municipal corporation constituted by this act and known as the city of New York, as said boundary line or lines is or are determined in and by this act, so as to distinguish and define the boundaries of said city, the boundaries of the boroughs thereof, and any other boundary line or lines determined in and by this act, by such monuments as may be authorized by resolution of the board of public improvements. He shall upon the request of the board of public improvements, of the municipal assembly, of a local board of commissioners of estimate or of commissioners of estimate and assessments, furnish surveys, diagrams or other information as may enable them to fully discharge the duties imposed upon them by this act relative to street and park improvements. It shall be lawful for the president of the board of public improvements, and all persons acting under his authority, to enter in the daytime into and upon any lands, tenements and hereditaments and waters which he shall deem necessary to be surveyed, used or converted for the laying out, surveying and monumenting of parks, streets, bridges, tunnels and approaches to bridges and tunnels, in the city of New York, or for marking any boundary line or lines.

President to appoint surveyor, appropriations to be made for maps, etc.

Sec. 443. The president of the board of public improvements shall have power to appoint a surveyor or engineer who shall have the custody of the maps filed in the office of the board of public improvements and to fix his salary within the proper appropriation. There shall be made in the final estimate each year such provisions or appropriations as may be necessary for the preparation and making of maps, plans and profiles, and for the setting of monuments, and the president of the board of public improvements shall be authorized, within the limits of such provision or appropriation, to employ such engineers, surveyors, clerks and assistants as may in his judgment be necessary for any part of such work.

Board may detail employes to assist president.

Sec. 444. The board of public improvements may, from time to time, and for so long a time as may be necessary, detail such employes from any department as they may deem necessary, to assist the president of the board of public improvements in carrying out the duties imposed upon him by this act.

TITLE 3.

GENERAL PROVISIONS RELATING TO THE DEPARTMENTS OF WATER SUPPLY, HIGHWAYS, STREET CLEANING, SEWERS, PUBLIC BUILDINGS, LIGHTING AND SUPPLIES AND BRIDGES.

Heads of departments.

Sec. 450. Each of the commissioners hereinafter provided for in this chapter shall in all respects administer his department in conformity with the ordinances of the municipal assembly relating thereto, and each shall be vested with the sole executive power in his department, and be subject to the laws of the state and the ordinances of the city for the conduct and the work of his department.

Branches; where located.

Sec. 451. The main office of each of the departments hereinafter mentioned in this chapter shall be located in the borough of Manhattan, unless the board of public improvements shall otherwise determine.

Branch offices of all or any of said departments may be located within such other of the boroughs as may be deemed advisable by the commissioner of such department, subject, however, to the approval of the board of public improvements; and it shall be the duty of the board of estimate and apportionment and of the municipal assembly to make proper provision therefor.

Deputies.

Sec. 452. The commissioner at the head of each of said departments may appoint one or more deputy commissioners, one of whom shall be located at the main office of such department, and there may be a deputy in each borough in which is located a branch office of such department, or the same deputy may have charge of more than one borough, as the commissioner appointing such deputy may deem advisable.

A deputy commissioner located at a branch office shall, under the direction and control of the commissioner appointing him, have charge of the office work of his department in the borough or boroughs for which the office was established and of the execution of all work devolved upon his department therein.

The commissioner at the head of each of said departments may designate one or more of said deputies, who shall, in addition to his other powers, possess every power and perform all and every duty belonging to the office of such commissioner, so far as specified in such designation, whenever so empowered by such commissioner by written authority, designating therein a period of time, not extending beyond a period of three months nor beyond the term of office of such commissioner, during which such power and duty may be exercised, and such designation and authority shall be duly filed in and remain of record in said department, but may be revoked at any time. A deputy commissioner so designated shall possess the like authority in case of absence or disability of such commissioner.

Engineers.

Sec. 453. The commissioner at the head of each of said departments, excepting the department of street cleaning, shall appoint a chief engineer of his department, with power to appoint, remove, and detail a staff of assistant engineers. If the commissioner of any department and the board of public improvements deem it advisable that more than one chief engineer be appointed for such department, such commissioner shall appoint such additional chief engineer or chief engineers, each with power to appoint and remove, at pleasure, and detail a staff of assistant engineers. All chief engineers and assistant engineers appointed by them respectively, must be civil engineers of at least ten years' experience. An engineer located at a branch office of his department in any borough may be appointed a deputy commissioner for the borough or boroughs to which he is assigned. An assistant engineer who has been appointed a deputy commissioner may be designated as the engineer for the borough in which he acts as deputy. Any engineer may be designated by such title as shall properly describe his principal duties in the judgment of the head of his department.

Chief engineer's duties.

Sec. 454. Each chief engineer shall perform such duties as may be required of him by this act by the commissioner at the head of his department or by his deputy in the borough in which such engineer shall be located.

Consulting engineers.

Sec. 455. The commissioner of water supply, the commissioner of highways, and the commissioner of sewers, shall each appoint, without definite term, when thereto authorized by the board of public improvements, a consulting engineer to their respective departments, who shall be an expert in all matters relating to the work performed by the department in which he is appointed and who shall have had at least fifteen years' experience as a civil engineer.

The commissioner of public buildings, lighting and supplies shall appoint (each without definite term) when thereto authorized by the board of public improvements, a consulting engineer of lighting and electricity to his department, who shall be an expert in all matters relating to lighting and electricity, and whose training shall also have included instruction in the capacity of civil engineer, and a consulting engineer of public buildings to his department, who shall be an expert in the matter of construction, repair and maintenance of public buildings, and a consulting architect to his department, who shall be an architect of recognized scientific and artistic standing of not less than fifteen years' experience.

The commissioner of bridges shall at any time appoint without definite term, when thereto authorized by the board of public improvements a consulting engineer, who shall be a recognized expert in bridge construction, and who shall have had not less than ten years' experience as a civil engineer.

Commissioners, powers to appoint and fix salaries.

Sec. 456. The commissioner at the head of each of said departments shall have power to appoint such clerks and subordinates as may

in his judgment be necessary in his main office, and may fix and regulate their salaries, within the limits of the appropriation duly made therefor.

A deputy commissioner in charge of a branch office of a department shall, subject to the approval of the head of his department, appoint such clerks and subordinates of his department, in and for his borough, as may in his judgment be necessary, and fix and regulate their salaries, within the limits of the appropriation duly made therefor.

Id. Other duties.

Sec. 457. The commissioner at the head of each of said departments shall prepare and execute all contracts authorizd by the board of public improvements, or by said board and the municipal assembly for his department, and shall make and cause to be made all surveys, maps, plans, estimates and drawings of all works relating to his department, and shall preserve the same in the main office of the department, and shall make an annual report of the business and transactions of his department to the mayor.

Id. To organize bureaus.

Sec. 458. The commissioner at the head of each of said departments may organize such bureaus as he shall from time to time deem necessary to the proper discharge of the duties of his department; he shall locate a branch of each of the bureaus so organized, in the public hall or building of the borough of Brooklyn, for the discharge of all of the duties of the department devolved upon such bureau or bureaus, so far as such duties pertain to the borough of Brooklyn; and he may from time to time locate a branch of any or all bureaus so organized by him in any of the other boroughs of the city for the discharge of the duties devolved upon such bureau or bureaus, so far as such duties pertain to the boroughs wherein such branch or branches may be respectively located.

Commissioners: power to appoint, etc.

Sec. 459. If the commissioners of two or more departments named in this chapter shall at any time determine that the duties of the chief engineer or the deputy commissioner in each of said two or more departments in and for any borough can be adequately performed by one and the same person, then it shall be lawful for said commissioners, each acting in his department, to appoint the same individual as chief engineer or deputy commissioner, or both, of such departments for any of said boroughs; such appointment as chief engineer may be revoked by the proper commissioner or commissioners, respectively, as to all but one department, whenever the board of public improvements shall so authorize; and the board of public improvements shall also then determine and decide for which department the said person shall remain and shall be chief engineer.

Transfer of employes from borough to borough and from department to department.

Sec. 460. Nothing in this act contained shall be construed to limit in any way the power of the commissioner at the head of any one of the departments named in this chapter to transfer any employe or employes from the office of his department located in one borough to the office of his department in any other borough.

It shall be lawful for the board of public improvements to transfer employes of one of the departments named in this chapter to another of said departments, provided that in each case the heads of the departments affected shall consent to and request such transfer.

Transfer of appropriations.

Sec. 461. No appropriation specifically appropriated to be used in one borough shall be transferred for expenditure in any other borough except by the unanimous vote of the board of estimate and apportionment; but if any public work within the cognizance and control of any one of said commissioners must be executed in more than one borough he may, in his discretion, direct that said work shall be done through the joint forces of his department in the boroughs affected, or he may execute such work with the force of his central office.

Definition of word "street."

Sec. 462. Whenever the word "street" or the plural thereof, occurs in this chapter, it shall be deemed to include all that is included by the term "street, avenue, road, alley, lane, highway, boulevard, concourse, public square and public place," or the plurals thereof, respectively.

TITLE 4.

DEPARTMENT OF WATER SUPPLY

Commissioner of water supply; appointment; salary.

Sec. 468. The head of the department of water supply shall be called the commissioner of water supply. He shall be appointed by the mayor and hold office as provided in chapter IV of this act. His salary shall be seven thousand five hundred dollars a year.

Id. Jurisdiction.

Sec. 469. The commissioner of water supply shall have cognizance and control:

(1) Of all structures and property connected with the supply and distribution of water for public use, except where the same shall be owned by private corporations, including all fire and drinking hydrants and all water meters.

(2) Of maintaining the quality of the water supply, and of the investigation for, and the construction of all work necessary to deliver the proper and required quantity of water with ample reserve for contingencies and future demands.

(3) Of the collection of the revenues from the sale or use of water from the public water supply.

(4) Of the enforcing of the regulations concerning the use of water and of recommending to the board of public improvements proposed ordinances relating to any of the matters within the province of his department.

Id. Power when more than one borough involved.

Sec. 470. If any of the public works within the cognizance and control of the said commissioner of water supply must be executed entirely outside of the city limits, he may direct that such work be done by any of his force of any borough as may seem to him most advantageous.

Id. Restriction on power to contract.

Sec. 471. It shall not be lawful for the commissioner of water supply to enter into any contract whatever with any person or corporation engaged in the business of supplying or selling water for private or public use and consumption, unless preliminary to the execution of the contract, the assent of the board of public improvements after submission to it of the proposed contract in all its details, shall be given by resolution to the execution of such contracts as submitted, and it shall not be lawful for the said city of New York or for any department thereof, to make any contract touching or concerning the public water supply, and especially the increase thereof, with any person or corporation whatsoever, save in accord with the provisions and requirements of this act, which said provisions and requirements are hereby declared to establish the exclusive rule for the making of such contracts.

Id. Power to determine source of water supply, condemnation proceedings, etc.

Sec. 472. The commissioner of water supply, with the approval of the board of public improvements, shall have power throughout the state of New York to select and to determine all sources of water supply that may be needed for the supply of the public water works of said city, and for the supply and distribution of water in said city. Any sources of water so selected and determined by him shall be deemed necessary for the public use of the city of New York, and thereupon, with the approval of the board of public improvements and of the board of estimate and apportionment, together with the authority of the municipal assembly expressed by its resolution or ordinance, it shall be lawful for the city of New York to acquire by condemnation any real estate or any interest therein that may be necessary in order to acquire the sole and exclusive property in such source or sources of water supply, and to wholly extinguish the water rights of any other person or corporation therein, with the right to lay, relay, repair and maintain conduits and water pipes with the connections and fixtures on the lands of others, the right to intercept and to direct the flow of waters from the lands of riparian owners, and from persons owning or interested in any water, and the right to prevent the flow or drainage of noxious or impure matters from the lands of others into its reservoirs or sources of supply, provided that he shall not have power to acquire or to extinguish the property rights of any person or corporation in or to any water rights that, at the time of the initiation of proceedings for condemnation, were in whole or in part devoted to the supply of the water works of the people of any other city, town or village of the state, or to the supply and distribution of water to the people thereof, or to take or use the water from any of the canals of the state, any canal reservoirs, or waters used exclusively as feeders for canals, or from any of the streams acquired by the state for supplying the canals with water. It shall be the duty of the corporation counsel to take the necessary legal proceedings, as provided in this act, for such improvement, upon the request in writing of the said commissioner of water supply. In the ascertainment of the compensation for any property or property rights so acquired, such compensation shall be based upon the actual values of the property or the interest acquired therein at the time of its taking, and there shall not be taken into consideration any prospective or speculative value, based upon the possible, probable or actual future use of such property or property rights, if the same had not been acquired by the said city of New York for the public use.

The commissioner of water supply is hereby authorized to examine into the sources of water supply of any private companies supplying the city of New York or any portion thereof or its inhabitants with water, to see that the same is wholesome and the supply is adequate, and to establish such rules and regulations in respect thereof as are reasonable and necessary for the con-

venience of the public and the citizens; and the board of public improvements may exercise superintendence, regulation and control in respect of the supply of water by such water companies, including rates, fares and charges to be made therefor, except that such rates, fares and charges shall not, without the consent of the grantee, be reduced by the board of public improvements beyond what is just and reasonable; and in case of a controversy the question of what is just and reasonable shall be finally determined as a judicial question on its merits by a court of competent jurisdiction.

Municipal assembly; power to fix rents, etc., for water supply.

Sec. 473. The municipal assembly shall hereafter have all power, on recommendation of the board of public improvements, to fix and to establish a uniform scale of rents, and charges for supplying water by the city of New York which shall be apportioned to different classes of buildings in said city in reference to their dimensions, values, exposures to fires, ordinary uses for dwellings, stores, shops, private stables and other common purposes, number of families or occupants, or consumption of water, as near as may be practicable, and modify, alter, amend and increase such scale from time to time, and to extend it to other descriptions of buildings and establishments. All extra charges for water shall be deemed to be included in the regular rents, which shall become a charge and lien upon the buildings upon which they are respectively imposed, and if not paid, shall be returned as arrears to the collector of assessments and arrears. Such regular rents, including the extra charges above mentioned, shall be collected from the owners or occupants of all such buildings, respectively, which shall be situated upon lots adjoining any street or avenue in said city in which the distributing water pipes are or may be laid, and from which they can be supplied with water. Said rents, including the extra charges aforesaid, shall become a charge and lien upon such houses and lots, respectively, as herein provided, but no charge whatever shall be made against any building in which a water meter may have been, or shall be placed as provided in this act. In all such cases the charge for water shall be determined only by the quantity of water actually used as shown by said meters.

Commissioner, power to contract for water supply for the Twenty-fourth ward; duty in relation to.

Sec. 474. The commissioner of water supply is authorized on behalf of the city of New York, with the preliminary consent of the board of public improvements and of the board of estimate and apportionment, to contract from time to time with the city of Yonkers, or the board of water commissioners of the city of Yonkers, for a supply of wholesome water for the Twenty-fourth ward and other parts of the borough of the Bronx, from the water works or water belonging to them or under their charge and control, for such time, in such quantities, and at such places as may be agreed upon by them. The said commissioner of water supply is authorized and directed to procure, purchase and lay, provide and make ready for use, from time to time, so many mains and pipes and other means and appliances, and erect so many hydrants as may be necessary and sufficient to distribute and supply the water so procured under contract with the city of Yonkers to and through said Twenty-fourth ward, or such part of it as may require or be in need of the same, and which cannot be or, in his judgment, ought not to be supplied from the Croton water works, and to purchase, provide, do and perform all things necessary or proper to enable the said Twenty-fourth ward, or said part, and the inhabitants thereof, to obtain and have an abundant supply of water at all times, and for such purpose, in case of necessity or convenience, to arrange and agree with the owner of lands in said ward for an irrevocable license or permission to enter upon, lay, repair, keep in order, protect and maintain mains, pipes, conduits and hydrants in, through and upon said lands. The municipal assembly is authorized to fix, and from time to time to alter, on the recommendation of the board of public improvements, special rates or charges for water supplied to any house or building, or to any other erection or structure, in said Twenty-fourth ward, including washers and hydrants, and to make such arrangements and rules as may be proper to ascertain the quantity of water used therein, or by means thereof, and such rates and charges shall be a lien until paid upon the lands upon which such house, building or other erection or structure may stand or be situated, and shall be collectable at the same time and in the same manner, including sales for unpaid taxes, as the ordinary tax imposed on the same lands.

Meters.

Sec. 475. The commissioner of water supply is authorized, in his discretion, to cause water meters, the pattern and price of which shall be approved by the board of public improvemnts, to be placed in all stores, workshops, hotels, manufactories, office buildings, public edifices, at wharves, ferry-houses, stables, and in all places in which water is furnished for business consumption, so that all water so furnished therein or thereat may be measured and known by the said department, and for the purpose of ascertaining the ratable portion which consumers of water should pay for the water therein or thereat received and used. Thereafter, as shall be determined by the commissioner of water supply, the said department shall make out all bills and charges for water furnished by them to each and every consumer as aforesaid, to whose consumption a meter as aforesaid is affixed in ratable proportion to the water consumed, as ascertained by the meter on his or her premises or places occupied or used as aforesaid. All expenses of meters, their connections and setting, water rates and other lawful charges for the supply of water shall be a lien upon the premises where such water is supplied as now provided by law. Nothing herein contained shall be construed so as to remit or prevent the due collection of arrearages or charges for water consumption heretofore incurred, nor interfere with the proper liens therefor, nor of charges, or rates, or liens hereafter to be incurred for water consumption in any dwelling house, building, or place which may not contain one of the meters aforesaid. The moneys collected for expenses of meters, their connections and settings, shall be applied by the commissioner of water supply to the payment of expenses incurred in procuring, connecting and setting said meters.

Additional charge for non payment of rents.

Sec. 476. The annual rents which are not paid to the department of water supply before the first day of August in each year, shall be subject to an additional charge of 5 per cent., and those rates not paid before the first day of November in each year shall be subject to a further additional charge of 10 per cent.

No valve, etc., to be used with royalty.

Sec. 477. No patent hydrant, valve, or stop-cock shall be used by the department of water supply unless the patentee or owner of said patent shall allow the use of the patent by said department without royalty.

Printed notices of rules and regulations.

Sec. 478. The rules and restrictions for the use of the water printed on each permit shall be notice to the water takers, and shall authorize the exaction and recovery by process of law of any penalties which may be imposed in addition to cutting off the use of the water for any violations of the rules, and this section shall be printed on such permits.

Commissioners, duty in regard to sources of water supply and property of department.

Sec. 479. The commissioner of water supply is charged with the preservation of all lakes and all waters from which a water supply is drawn by the city, with the preservation of the banks of and of any river or other body of water from which the water supply is drawn, from injury or nuisance, and with the execution of such measures as may be necessary to preserve and increase the quantity of water and keep it pure and wholesome and free from contamination and pollution with the management, preservation and repairs of the dams, gates, aqueducts, bridges, water towers, reservoirs, mains, pipes, pipe-yard and property of every description belonging to the water works, and shall have the construction of such new works and the purchase and laying down of such mains and pipes as may be authorized in accordance with law. The department of water supply shall be responsible for the supply of water and the good order and security of all the water works, for the exactness and durability of the structures which may be erected, and for the daily work to be performed and for the sufficiency of the supply in the pipe-yards to meet every casualty, and for the fidelity, care and attention of all persons employed by the department in watching the works and in making constructions and repairs.

Assessment on lands used as reservoirs, etc.

Sec. 480. The lands heretofore taken or to be taken for storage, reservoirs or for other constructions necessary for the introduction and maintenance of a sufficient supply of water in the city, or for the purpose of preventing contamination or pollution, shall be assessed and taxed in the counties in which they are or may be located, in the manner prescribed by law, at the value of the lands, exclusive of the aqueducts, and the construction and works necessary for its purposes, provided that the assessed value of the said lands shall not exceed the assessed value of the lands in the immediate neighborhood thereof.

Certain acts misdemeanors.

Sec. 481. It shall not be lawful for any person to throw or deposit, or cause to be thrown or deposited in any lake, pond or stream, or in any aqueduct from or through which any part of the water supply of the city of New York shall be drawn, or either of the reservoirs, any dead animal or other offensive matter, or anything whatever. Any person offending against the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or imprisonment, or both, in the discretion of the court. Such fine not to exceed the sum of one hun-

dred dollars, and such imprisonment not to exceed a period of three months. Such imprisonment to be in the jail of the county in which the offense shall have been committed.

Id. Continued.

Sec. 482. If any person shall willfully do or cause to be done any act whereby any work, materials or property whatever, erected or used or hereafter to be erected or used within the city or elsewhere, by the said city, or by any person acting under their authority, for the purpose of procuring or keeping a supply of water, shall in any manner be injured or shall erect or place any nuisance on the banks of any river, lake or stream from which the water supply of said city shall be drawn, or shall throw anything into the aqueduct, or into any reservoir or pipe, such person, on conviction thereof, shall be deemed guilty of a misdemeanor.

Duty of commissioner of water supply.

Sec. 483. The commissioner of the water supply is hereby authorized, empowered and directed to carry out the provisions of this act, in the manner hereinafter provided, for the purpose of maintaining, preserving and increasing the supply of pure and wholesome water for the use of the city, and for the purpose of preventing or removing contamination or pollution of any supply or source or sources of supply of water heretofore acquired by or on behalf of said city, and for the purpose of preventing the contamination or pollution of any river, water course, lake, pond, stream or reservoir hereafter acquired for the purpose of supplying said city with water.

To take proceedings to acquire title.

Sec. 484. In all cases where the commissioner of water supply shall hereafter enter upon, acquire, take or use, or shall deem it necessary to enter upon, acquire, take or use any "real estate," as the term real estate is defined by this act, for the purpose of maintaining, preserving or increasing the supply of pure and wholesome water for the use of said city, or for the purpose of preventing the contamination or pollution of the same, as hereinbefore set forth, the said commissioner is authorized, for and in behalf, and in the name of the city of New York, in the manner hereinafter prescribed, to acquire all rights, titles and interests in and to such real estate, by whomsoever the same may be held, enjoyed or claimed, and to pay for and extinguish all claims or damages on account of such rights, titles or interests, or growing out of such taking or using.

Definition of "real estate."

Sec. 485. The term "real estate" as used in this act shall be construed to signify and embrace all uplands, lands under water, the water of any lake, pond or stream, all water rights or privileges, and any and all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal and equitable, in lands or water, or any privilege or easement thereunder, including terms for years, and liens thereon by way of judgment, mortgages or otherwise, and also all claims for damage to such real estate. It shall also be construed to include all real estate (as the term is above defined) heretofore or hereafter acquired or used for railroad, highway or other public purpose, providing the persons or corporations owning such real estate, or claiming interests therein, shall be allowed the perpetual use, for such purposes, of the same or of such other real estate to be acquired for the purposes of this act as will afford practicable route or location for such railroad, highway or other public purpose, and in the case of a railroad commensurate with and adapted to its needs; and provided, also, that such persons or corporations shall not, directly or indirectly, be subject to expense, loss or damage by reason of changing such route or location, but that such expense, loss or damage shall be borne by the city. In case any real estate so acquired or used for public purposes is sought to be taken or affected for the purposes of this act, there shall be designated upon the maps referred to in this act, and there shall be described in the petition referred to, such portion of the other real estate shown on said maps and described in said petition as it is proposed to substitute in place of the real estate then used for such railroad, highway or other public purposes. The supreme court, at the special term to which said petition is presented, or at such other special term as the consideration thereof may be noticed or adjourned to, shall either approve the substituted route or place or refer the same back to the said commissioner for alteration or amendment, and may refer the same back, with such directions or suggestions as the said court may deem advisable, and as often as necessary, and until the said commissioner shall determine such substituted route or place as may be approved by the court, an appeal from any order made by said court at special term, under the provisions of this section, may be taken by any person or corporation interested in and aggrieved thereby, to the appellate division of the judicial department in which the real estate is situated, and shall be heard as a non-enumerated motion. The commissioners of appraisal herein referred to, in determining the compensation to be made to the persons or corporations owning such real estate, or claiming interest therein, shall include in the amount of such compensation such sum as shall be sufficient to defray the expenses of making such change of route and location and of building said railroad or highway. The said commissioners of appraisal shall suggest in their report, and the court, in the order confirming such report, shall determine, subject to review by the said appellate division, what reasonable time after payment of the awards to said persons or corporations shall be sufficient within which to complete the work of making such change, and the said city of New York or the commissioner of water supply thereof shall not be entitled to take possession or interfere with the use, for the aforesaid purposes, of such real estate, before the expiration of such time. This time may be subsequently extended by the court (subject to review as aforesaid) upon sufficient cause shown. After the expiration of the time so determined or extended no use shall be made of said real estate which shall cause pollution to the water in said reservoir, or the construction of said reservoir, or interfere with its flow.

Commissioner to prepare maps.

Sec. 486. Whenever, in the opinion of said commissioner, it is necessary to acquire any such real estate (as the term "real estate" is herein defined) for any of the purposes hereinbefore set forth, or for the purpose of extinguishing any right, title or interest thereto or therein, the said commissioner, for and on behalf of the city of New York, shall prepare a map or maps of the real estate which in his opinion it is necessary to acquire for the purposes hereinbefore set forth, and shall submit the same to the board of public improvements for approval. The said board may adopt, modify or reject such maps in whole or in part, and may require others to be made instead thereof. A copy of the map or maps so prepared, with a certificate of the adoption thereof, signed by the commissioner and the president of the board of public improvements, shall be filed in the office of said commissioner and be open to public inspection, and shall be the map or maps of the real estate to be acquired, subject to such changes or modifications as the said commissioner may from time to time deem necessary for the more efficient carrying out of the provisions of this act. And the said board of public improvements, prior to the final adoption of such map or maps, shall afford to all persons interested a full opportunity to be heard respecting such map or maps and the acquisition of the real estate shown thereon, and shall give public notice of such hearing, by publishing a notice, once in each week, for three successive weeks in the City Record and the corporation newspapers, and in two papers published in the county or counties in which the real estate to be acquired or affected is situated, and in two daily papers in the city of New York. At such hearing or hearings testimony may be produced by the parties appearing before him, in such manner as said board may determine, and the president of said board is hereby authorized to administer oaths and issue subpenas in any such proceeding pending before him.

Power to enter upon lands for the purpose of making maps.

Sec. 487. The said commissioner, his agents, engineers, surveyors and such other persons as may be necessary to enable him to perform his duties under this act, are hereby authorized to enter upon real estate, as the term real estate is defined in this act, and any land or water on or contiguous to the line, course, site or track of any pond, lake, stream, reservoir, dam, aqueduct, culverts, sluices, canals, bridges, tunnels, pumping works, blow-offs, shafts and other appurtenances, for the purpose of making surveys or examinations and preparing and posting the notices required by this act.

Details of maps.

Sec. 488. After the final adoption of said map or maps the said commissioner shall prepare six similar maps or plans of the proposed site of any dam, reservoir, aqueduct, sluice culvert, canal, pumping works, bridges, tunnels, blow-offs, ventilating shafts, and other necessary appurtenances for the proper completion of the work so proposed by him. Upon these maps there shall be laid out and numbered the various parcels of real estate, on, over or through which the same are to be constructed and maintained, or which may be necessary for the prosecution of the work authorized by this act. On said maps the natural and artificial division lines existing on the surface of the soil at the time of the survey shall be delineated, and there shall be plainly indicated thereon of which parcels the fee or other interest is to be acquired. The said maps may be made and filed in sections. One or more sections may be determined before the maps of the whole construction are completed. The proceedings hereinafter authorized may, in like manner be taken separately, in reference to one or more of such sections, before the maps of the whole are filed. The work upon one or more of such sections may be begun before the maps of the remaining sections are filed. The map or maps when adopted by the said commissioner and board of public improvements shall be by said commissioner transmitted to the corporation counsel, with a certificate of approval written thereon and signed by the said commissioner and the

president of the board of public improvements.

Maps to be filed.

Sec. 489. The corporation counsel shall cause one of said maps to be filed in the office of the clerk of each county in which any real estate laid out on said maps shall be located, except that in any county in which there may be a register's office, the said map shall be filed therein, instead of with the county clerk. The fourth, fifth and sixth maps shall be disposed of in the manner indicated in section 495 of this act.

Corporation counsel to conduct proceedings.

Sec. 490. After the said maps shall have been filed, as provided for in the last section, the corporation counsel for and on behalf of the city of New York, shall, upon first giving the notice required in the next section of this title apply to the supreme court, at a special term thereof to be held in the judicial district in which the real estate to be acquired or affected is situated, for the appointment of commissioners of appraisal. Upon such application he shall present to the court a petition, signed and verified by the said commissioner, according to the practice of said court, setting forth the action theretofore taken by said commissioner and board of public improvement, and the filing of said map and praying for the appointment of such commissioners. Such petition shall contain a general description of all the real estate to, in, or over which any title, interest, right or easement is sought to be acquired for the said city for the purposes of this act, each parcel being more particularly described by a reference to the number of said parcel, as given on said map; and the title, interest or easement sought to be acquired to, in, or over such parcel, whether a fee or otherwise, shall be stated in the petition.

Notice to be given.

Sec. 491. The corporation counsel shall give notice in the City Record, and corporation newspapers, and in two public newspapers published in the city of New York, and in two public newspapers published in each other county in which any real estate laid out on said maps may be located, of his intention to make application to the said court for the appointment of such commissioners of appraisal, which notice shall specify the time and place of such application, shall briefly state the object of the application, and shall describe the real estate sought to be taken or affected. A statement of the boundaries of the real estate to be acquired or affected, with separate enumerations of the numbers of the parcels to be taken, in fee, and of the numbers of the parcels in which any interest or easement is to be acquired, with a reference to the date and place of filing the said map shall be sufficient description of the real estate sought to be so taken or situated. Such notice shall be so published, once in each week, in each of the said newspapers, for six weeks immediately previous to the presentation of such petition; and the corporation counsel shall, in addition to the said advertisements, cause copies of the same, in handbills, to be posted in at least twenty conspicuous places in the vicinity of the real estate so to be taken or affected, at least six weeks prior to said application.

Motions for appointment of commissioners of appraisal.

Sec. 492. At the time and place mentioned in said notice, unless the said court shall adjourn said application to a subsequent day, and in that event, at the time to which the same may be adjourned, the court upon due proof to its satisfaction of the publication and posting aforesaid, and upon filing the said petition, shall make an order for the appointment of three disinterested and competent freeholders, one of whom shall reside in the county of New York, one of whom shall reside in the county in which the real estate acquired or affected is situated, and one of whom shall reside in the county in which the said real estate shall be situated, or in an adjoining county, as commissioners of appraisal to ascertain and appraise the compensation to be made to the owners and all persons interested in the real estate laid down on said maps, as proposed to be taken or affected for the purposes indicated in this act. Such order shall fix the time and place for the first meeting of the commissioners.

Commissioners to take and file oath.

Sec. 493. The said commissioners shall take and subscribe the oath required by the twelfth article of the constitution, and shall forthwith file the same in the office of the clerk of the county in which the real estate to be acquired or affected is situated, and shall file certified copies of said oath in the office of the register and county clerk of the county of New York.

City to become seized of real estate.

Sec. 494. On filing the oath of the commissioners of appraisal, in the manner provided by the last section, the said city of New York shall be and become seized, in fee of all those parcels of real estate which are shown on the said map hereinbefore referred to, of which it has been determined by the said commissioner, that the fee shall be acquired and shall be entitled to take and hold such interest in the parcels of land in which it has been determined that the fee shall not be acquired, as has been shown on said map and described in said petition, and may immediately, upon the filing of such oaths and such certified copies, or at any time or times thereafter, take possession of the lands shown on said map, or any part or parts thereof, without any suit or proceeding at law for that purpose.

Proceedings of commissioners.

Sec. 495. Any one of said commissioners of appraisal may issue subpenas and administer oaths to witnesses; and they, or any one of them, in the absence of the others, may adjourn the proceedings from time to time, in their discretion, but they shall continue to meet, from time to time, as may be necessary to hear, consider and determine upon all claims which may be presented to them under this act. In case of death, resignation, refusal, neglect or inability to serve, of any commissioner or commissioners of appraisal, the corporation counsel shall, upon due notice to be given by advertisement in the newspapers designated in this act ten days prior to such application, apply to the supreme court, at a special term thereof, to be held in the judicial district in which the real estate is situated for the appointment of one or more commissioners to fill the vacancy or vacancies so occasioned. Whenever the commissioners meet, except by appointment of the court, or pursuant to adjournment, they shall cause reasonable notice to be given to the attorneys for such parties who have appeared. It shall be the duty of the commissioners of appraisal to procure from the corporation counsel the fourth, fifth and sixth copies of the maps provided for in this act. They shall view the real estate laid down on said maps, and shall hear the proofs and allegations of any owner, lessee or other person in any way entitled to, or interested in said estate, or any part or parcel thereof, and also such proofs and allegations as may be offered on behalf of the city of New York. They, or a majority of them, shall also determine the height to which the waters of any lake, pond or natural stream concerning which such proceedings were instituted may be raised and the point to which such waters may be drawn down by the City of New York, such determination to be made before any award of damages shall be made on account of such proposed raising or depressing of such waters, and they shall also determine what sum shall be paid to the general or special guardian or committee of an infant, idiot, or person of unsound mind, and to the attorney appointed by the court to attend to the interests of any unknown owner or party in interest, or to the attorney or guardian of any party in interest whose interests are unknown or the interest of any person or persons not in being. They shall reduce the testimony, if any, taken before them, to writing, and after the testimony is closed, they, or a majority of them, all having considered the same, and having an opportunity to be present, shall, without unnecessary delay, ascertain and determine the just compensation which ought justly to be made by the city of New York to the owners, or the persons interested in the real estate sought to be acquired or affected by said proceedings. The said commissioners of appraisal shall make reports of their proceedings to the supreme court, as in the next section provided, with the minutes of the testimony taken by them, if any, and they shall be entitled to the payments hereinafter provided for their services and expenses, to be paid from the fund herein provided.

Commissioners to prepare report.

Sec. 496. The said commissioners shall prepare a report and a true copy or true copies thereof, as may be required, to which shall be resepctively annexed the fourth and fifth copies, and, if required, the sixth copies of the maps referred to in this act. The said report shall contain a brief description of the several parcels of real estate so taken or affected, with a reference to the map as showing the location and boundaries of each parcel; a statement of the sum estimated and determined upon by them as a just compensation to be made by the city to the owners of or persons entitled to or interested in each parcel so taken or affected, and a statement of the respective owners of or persons entitled thereto or interested therein; but in all and each and every case and cases, where the owners and parties interested, or their respective estates or interests are unknown, or not fully known, to the commissioners of appraisal, it shall be sufficient for them to set forth and state, in general terms, the respective sums to be allowed and paid to the owners of and parties interested therein generally, without specifying the names or estates or interests of such owners or parties interested, or any or either of them. They shall also recommend such sums as shall seem to them proper to be allowed to the parties or attorneys appearing before them, as costs, counsel fees, expenses and disbursements, including reasonable compensation for witnesses.

Report to be filed.

Sec. 497. Said report signed by said commissioners, or a majority of them, shall be filed in the office of the clerk of the county in which the real estate is situated. The commissioners of appraisal shall notify the corporation counsel as soon as the said report is filed.

Notice of motion to confirm report.

Sec. 498. The corporation counsel, or, in case of his neglect to do so within ten days after receiving notice of such filing, then any

person interested in the proceedings, shall give notice that the said report will be presented for confirmation to the supreme court, at a special term thereof, to be held in the judicial district in which the real estae is situated, at a time and place to be specified in said notice. The said notice shall contain a statement of the time and place of the filing of the report, and shall be published in each of the newspapers referred to in section 491 of this act, once in each week, for at least four weeks immediately prior to the presentation of said report for confirmation.

Confirmation of report.

Sec. 499. The application for the confirmation of the report shall be made to the supreme court, at a special term thereof, held in the judicial district in which the real estate is situated. Upon the hearing of the application for the confirmation thereof, the said court shall confirm such report, and make an order, containing a recital of the substance of the proceedings in the matter of the appraisal, with a general description of the real estate appraised, and for which compensation is to be made; and shall also direct to whom the money is to be paid, or in what trust company it shall be deposited by the controller of the city of New York. Such report, when so confirmed, shall (except in the case of an appeal, as provided in section 505 of this act) be final and conclusive as well upon the said city of New York as upon the owners and all persons interested in or entitled to said real estate; and also upon all other persons whomsoever.

Payment of awards.

Sec. 500. The said city of New York shall, within four calendar months after the making and entry of the order confirming the report of the commissioners of appraisal, pay to the respective owners and bodies, politic or corporate, mentioned or referred to in said report, in whose favor any sum or sums of money shall be estimated and reported by said commissioners, the respective sum or sums so estimated and reported in their favor respectively; with lawful interest thereon, from the date of filing the oath of said commissioners and certified copies thereof, as by this act required. And in case of neglect or default in the payment of the same within the time aforesaid, the respective person or persons, or bodies, politic or corporate, in whose favor the same shall be so reported, his, her, or their executors, administrators, legal representatives or successors, at any time or times, after application first made by him, her, or them, to the controller of the city of New York for payment thereof, may sue for and recover the same, with lawful interest, as aforesaid, and the costs of suit in any proper form of action against the said city of New York in any court having cognizance thereof, and in which it shall be sufficient to declare generally for so much money due to the plaintiff or plaintiffs therein by virtue of this act, for real estate taken or affected for the purposes herein mentioned, and the report and order confirming report of said commissioners, with proof of the right and title of the plaintiff or plaintiffs to the sum or sums demanded shall be conclusive evidence in such suit or action, and entitle plaintiff to judgment therein.

Sum awarded to be deposited in certain cases.

Sec. 501. Whenever the owner or owners, person or persons interested in any real estate taken or affected in such proceedings, or in whose favor any such sum or sums or compensation shall be so reported, shall be under the age of 21 years, of unsound mind, or absent from the state of New York, and also in all cases where the name or names of the owner or owners, person or persons, interested in any such real estate shall not be set forth or mentioned in the said report or where the said owner or owners, person or persons, being named therein cannot, upon diligent inquiry, be found, or where there are adverse or conflicting claims to the money awarded as compensation, it shall be lawful for the said city of New York to pay the sum or sums mentioned in the said report, payable, or that would be coming to such owner or owners, person or persons respectively, with interest aforesaid, into such trust company as the court may, in the order of confirmation, direct, to the credit of such owner or owners, person or persons, and such payment shall be as valid and effectual, in all respects, as if made to the said owner or owners, person or persons interested therein respectively themselves, according to their just rights; and provided, also, that in all and each and every such case and cases where any such sum or sums, or compensation, reported by the commissioners in favor of any person or persons, or party or parties, whatsoever, whether named or not named in the said report, shall be paid to any person or persons, or party or parties, whomsoever, when the same shall of right belong and ought to have been paid to some other person or persons, or party or parties, it shall be lawful for the person or persons, or party or parties to whom the same ought to have been paid, to sue for and recover the same, with lawful interest and costs of suits, as so much money had and received to his, her or their use, by the person or persons, party or parties respectively to whom the same shall have been so paid.

Who may present claim before commissioner.

Sec. 502. Every owner or person in any way interested in any real estate taken, affected or entered upon and used and occupied for the purposes contemplated by this act, and any owner or person interested in real estate contiguous thereto, and which is affected by the acquisition, use or occupation of the real estate shown on said map, whether such contiguous real estate is shown on the maps or not, if he or they intend to make claim for compensation for such taking, entering upon, using or occupying, shall, within one year after the appointment of the commissioners of appraisal, exhibit to the said commissioners a statement of claim, and shall thereupon be entitled to offer testimony and to be heard before them touching such claim, and the compensation proper to be made, and to have a determination made by such commissioners of appraisal as to the amount of such compensation. Every person, corporation, or body politic, neglecting or refusing to present such claim within said time shall be deemed to have surrendered his, her or its title or interest in such real estate, or his, her or its claim for damages thereto, except so far as they may be entitled as such owners or persons interested, to the whole or a part of the sum of money awarded by the commissioners of appraisal as a just compensation for taking, using and occupying, or as damages for affecting the real estate owned by said person, corporation, or body politic.

City protected by payment.

Sec. 503. Payment of the compensation awarded by said commissioners of appraisal to the person or persons, corporation, or body politic named in their report (if not infants or persons of unsound mind) shall in the absence of notice to city of New York of other claimants to such award, protect the said city of New York.

Separate reports may be made.

Sec. 504. Said commissioners of appraisal may, in their discretion, take up any specified claim or claims, and finally ascertain and determine the compensation to be made thereon, and make a separate report with reference thereto, annexing to said report a copy of so much of the maps as displays the parcel or parcels so reported on. Such report shall, as to the claims therein specified, be the report required in this act, and the subsequent action with reference thereto shall be had in the same manner as though no other claim was embraced in said proceedings, which, however, shall continue as to all claims upon which no such determination and report is made.

Proceedings in case of an appeal.

Sec. 505. Within twenty days after the making, entry and service of the order confirming the report of the commissioners of appraisal, as provided for in this act, of which notice may, as to the parties who have not appeared before the commissioners, be given in the manner provided in this act, either party may appeal by notice in writing to the appellate division of the supreme court, of the judicial department in which the real estate described in said petition and shown on said map is situated. Such appeal shall be heard, on due notice thereof being given, according to the rules and practice of the said court, and pending such appeal the controller of the city of New York shall deposit in such trust company as the court shall direct the amount of the award, with interest to the date of such deposit, and the funds so deposited shall remain with the trust company, subject to the further order of the court. On the hearing of such appeal the court may direct a new appraisal and determination by the same or new commissioners, in its discretion, and either party if aggrieved may take a further appeal, which shall be heard and determined by the court of appeals. In the case of a new appraisal the second report shall be final and conclusive on all parties and persons interested. If the amount of compensation to be made by the said city is increased by the second report the difference shall be paid by the controller of the city of New York to the parties entitled to the same or shall be deposited as the court may direct; and if the amount is diminished the difference shall be refunded to the said city of New York by the trust company. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this act, providing such award and interest have been deposited. Such appeal shall be heard upon the evidence taken and proceedings had before such commissioners.

How defects may be remedied.

Sec. 506. The supreme court of the judicial district in which the real estate is situated shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause other property to be included therein, and to direct such further notices to be given to any party in interest as it deems proper, and also to appoint other commissioners in place of any who shall die or refuse or neglect to serve, or be incapable of serving, or be removed. And the said court may at any time remove any of said commissioners of appraisal who, in their judgment, shall be incapable of serving or who shall, for any reason in their judgment, be an unfit person to serve as such commissioner. The cause of such removal shall be

specified in the order making the same. If in any particular it shall at any time be found necessary to amend any pleading or proceeding, or to supply any defect therein, arising in the course of any special proceeding authorized by this act, the same may be amended or supplied in such manner as shall be directed by the supreme court, which is hereby authorized to make such amendment or correction.

Agreements with owners of real estate.

Sec. 507. The said commissioners, subject to the approval of the board of public improvements, may agree with the owners or persons interested in any real estate laid down on said maps as to the amount of compensation to be paid to such owners or persons interested for the taking or using and occupying such real estate. And in case any such real estate shall be owned, occupied or enjoyed by the people of this state, or by any county, town or school district within this state, such rights, titles, interests or properties may be paid for upon agreement respectively with the commissioners of the land office, who shall act for the people of the state, with a chairman and a majority in numbers of the board of supervisors of any county, who shall act for such county, and with the supervisor and commissioners of highways in any town, who shall act for such town, and with the trustees of any school district, who shall act for such district, and with the president and a majority of the board of trustees of any incoporated village. The commissioners of the land office shall have power to grant to the said city any real estate belonging to the people of this state which may be required for the purposes indicated in this act, on such terms as may be agreed on between them and the said commissioners; and if any real estate of any county, town, or school district is required by such city for the purpose of this act, the majority of the board of supervisors, acting for such county, or the supervisors of any such town, with the commissioners of highways therein, acting for such town, or the trustees of any school district, acting for such district, or the president and majority of trustees of any incorporated village, may grant or surrender such real estate for such compensation as may be agreed upon between such officers respectively and the said commissioners.

Compensation and expenses of commissioners.

Sec. 508. The commissioners of appraisal, appointed in pursuance of this act, shall receive as compensation for their services the sum of $10 per day for each day upon which the said commissioners shall meet and be actually and necessarily employed in the performance of the duties imposed upon them by this act. They may employ the necessary clerks and stenographers. The corporation counsel shall, either in person or by such counsel as he shall designate for the purpose, appear for and protect the interests of the city in all such proceedings in court and before the commissioners. The fees of the commissioners and the salaries and compensation of their employes, and their necessary traveling expenses, and all other necessary expenses in and about the special proceedings provided by this act, to be had for acquiring title or extinguishing claims for damages to real estate, and such allowances for counsel fees, expenses and witness fees as may be recommended by the commissioners and ordered paid by order of the court, shall be paid by the controller of the city of New York, out of the funds hereinafter provided, when they have been taxed before a justice of the supreme court in the judicial district in which the real estate is situated, upon five days' notice to the corporation counsel.

Issue of bonds.

Sec. 509. The controller of the city of New York is hereby authorized and directed to raise, from time to time, on bonds of said city, in addition to the amounts which he is now authorized to raise for such purposes, such sums of money as shall be sufficient to pay for any real estate, or for the extinguishment of any right, title, or interest therein acquired, and all damages appraised to persons interested therein, together with all expenses necessarily incurred in acquiring title to such real estate, or in extinguishing claims for damages thereto, and for all other expenditures herein authorized.

Description of bonds.

Sec. 510. The bonds to be issued by the controller of the city of New York in pursuance of this title shall be called "Corporate stock of the city of New York," and shall be issued in the manner hereinbefore provided for the issue of corporate stock, subject, however, to the limitations of the state constitution. And the municipal assembly of said city is hereby authorized and directed to raise, from time to time, by tax upon the estates, real and personal, subject to taxation in the city of New York, the sum or sums of money which may be required to pay the interest on said bonds and to redeem them at maturity.

Jurisdiction of state board of health.

Sec. 511. Any lake or reservoir constructed or maintained under the provisions of this act shall be subject to such sanitary regulations as the state board of health shall prescribe.

Highways and bridges.

Sec. 512. The city of New York is hereby required to build and construct such highways and bridges as may be made necessary by the construction of any reservoir in the counties of Westchester, Putnam, Queens or Suffolk under this act, and to repair and forever maintain such additional bridges as may be made necessary by the construction of such reservoir or reservoirs.

Account of expenditure to be filed in controller's office.

Sec. 513. The said commissioner of water supply shall, in every calendar month, file in the office of the controller of the city of New York an account of all expenditures made by him, or under his authority, and of all liabilities incurred by him, during the preceding month, and an abstract of each such amount shall be published in the City Record.

Limit within which Lake Mahopac may not be drawn down.

Sec. 514. Nothing herein contained shall authorize or empower or permit any water in excess of the ordinary flow thereof to be drawn from Lake Mahopac, in the town of Carmel, Putnam county, between the first days of March and September in any year.

Present proceedings to be continued.

Sec. 515. All proceedings pending at the time this act takes effect for the acquisition of title to or the extinguishment of rights in real estate for any of the purposes in this title specified, shall be continued and prosecuted to a conclusion according to the respective provisions of law under which said proceedings may have been begun, and as to all such proceedings this act shall not be deemed applicable.

Id. Corporations authorized to use grounds under streets, etc.

Sec. 516. All persons acting under the authority of the city of New York shall have the right to use the ground or soil under any street, highway or road within this state for the purpose of introducing water into the city of New York, on condition that they shall cause the surface of said street, highways or roads to be restored to its original state, and all damages done thereto shall be repaired.

Devolution of powers of former boards.

Sec. 517. For all the purposes of this act all of the rights, powers, privileges, duties and obligations, heretofore created by law or otherwise of the city of Brooklyn, or of any of its departments or officers respecting the water works of said city are, so far as they are consistent with the provisions of this act, hereby vested in the city of New York, as constituted by this act, and as matter of administration devolved upon the commissioner of water supply of the city of New York to be by him exercised in accordance with the provisions, directions and limitations of this act, and all of the rights, powers, privileges, duties and obligations of Long Island City, or of any or either of its departments or officers, or of any town, village or district in any of the territory hereby annexed to the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, and by this act consolidated into one city, in respect to any of the public water works or the public water system, or the public water supply thereof; the sale and distribution of the same, are hereby vested in the city of New York, and for the purpose of administration are hereby devolved upon the said commissioner of water supply of the city of New York to be by him executed pursuant to the provisions, directions and limitations of this act.

Sec. 518. Nothing in this act contained shall be deemed or construed to repeal, or in any wise affect chapter 490 of the laws of 1883, entitled, "An act to provide new reservoirs, dams and a new aqueduct with the appurtenances thereto for the purpose of supplying the city of New York with an increased supply of pure and wholesome water," or the several acts amendatory thereof, but the said act and its amendments shall remain in full force and effect, provided that the commissioners therein specified, shall not hereafter begin the construction of any new work, except such as may be properly and necessarily appurtenant to work, the construction of which has been begun before the date upon which this act takes effect. The term of office of the commission appointed and existing under the aforesaid act shall cease and determine on the first day of January, 1901, and therepuon all papers, documents and records in possession of the aqueduct commission shall be delivered to the commissioner of water supply, who shall continue and complete in the manner provided by this act, all work of every kind and description whatsoever left uncompleted by said commission.

TITLE 5.

DEPARTMENT OF HIGHWAYS.

Commissioner of highways; appointment, term, salary.

Sec. 523. The head of the department of highways shall be called the commissioner of highways. He shall be appointed by the mayor and hold office as provided in chapter

IV of this act. His salary shall be seven thousand five hundred dollars a year.

Id. Jurisdiction.

Sec. 524. The commissioner of highways shall have cognizance and control:

(1) Of regulating, grading, curbing, flagging and guttering of streets and laying crosswalks.

(2) Of constructing and repairing public roads.

(3) Of paving, repaving, resurfacing and repairing of all streets and of the relaying of all pavements removed for any cause.

(4) Of the laying or relaying of surface railroad tracks in any public street or road, of the form of railroad, or character of foundation, and the method of construction; and of the restoration of the pavement or surface after such work.

(5) Of the filling of sunken lots, fencing of vacant lots, digging down lots and of licensing vaults under sidewalks.

(6) Of recommending to the board of public improvements, ordinances relating to any of the matters within the province of his department. He shall make an annual report of the business and transactions of his department to the mayor.

Permit from department of highways necessary for removals of pavements, etc.; procedure in case of pavements relaid, etc.

Sec. 525. No removal of the pavement or disturbance of the surface of any street for the purpose of constructing vaults or lateral ways, digging cellars, laying foundations of buildings or other structures, making sewer connections, or repairing sewers or pipes, of laying down gas and water pipes, steam pipes and electric wires, or introducing the same into buildings, or for any purpose whatever, shall be made until a permit is first had from the department of highways, and whenever any portion of the pavement in any street or avenue in said city shall have been removed for any of these purposes, and such pavement shall not be relaid in a manner satisfactory to the commissioner, the said commissioner may cause a notice, in writing, to be served upon the person or corporation by whom the same was removed, or if such removal was for the purpose of making connection between any house or lot, or any sewer or pipes in the street, or for constructing vaults, or otherwise improving any house or lot, upon the owner or occupant of such house or lot requiring such person or corporation, or the owner or occupant of such house or lot, to have such pavement properly relaid within five days after service of such notice. Such notice may be served upon the owner or occupant of a house or lot by leaving the same with any person of adult age upon said premises or posting the same thereupon; in case such pavement or portion thereof, shall not be relaid to the satisfaction of said commissioner within the time specified in such notice, it shall be lawful, and authority is hereby given to said commissioner, to have such pavement, or the portion thereof which shall have been so unsatisfactorily laid, put in proper order and repair, in such manner as the commissioner may deem best, on account of the person or corporation by whom such pavement was removed, or of the owner of the premises for whose benefit such removal was made. Upon the costs of such work being certified to the controller of the city of New York by the said commissioner, with a description of the lot or premises to improve which such removal was made, said controller shall pay the same, and the amount so paid shall become a lien and charge upon the premises so described, and, on being certified by the controller to the collector of assessments and arrears, may be collected in the same manner that arrears and water rates are collected under the direction of such collector of assessments and arrears. But nothing herein contained shall be deemed to prohibit said commissioner from demanding, before issuing said permit, and as a condition thereof, the deposit of such sum of money, or other security, as in his judgment may be necessary to pay the cost of properly relaying the pavement so removed, together with the expense of the inspection thereof.

The office of commissioner of street improvements in the 23d and 24th wards abolished; devolution of powers.

Sec. 526. The office of commissioner of street improvements of the Twenty-third and Twenty-fourth wards of the city of New York, created by chapter five hundred and forty-five of the laws of eighteen hundred and ninety, is hereby abolished, and all the powers, privileges and duties of the said commissioner of street improvements for the said Twenty-third and Twenty-fourth wards, which in any way relate to the regulating, grading, regrading, curbing, flagging and guttering of streets, laying of crosswalks, the constructing and repairing of public roads, paving, repairing and repaving of all streets and the relaying of all pavements removed for any cause, of the filling of sunken lots, are hereby, so far as the same are consistent with the requirements of this act, devolved upon the commissioner of highways of the city of New York, and are to be exercised and performed by him according to the provisions of this act.

Devolution of powers of former boards.

Sec. 527. All powers and duties conferred upon the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or upon any board or officer thereof, or upon the corporation known as the city of Brooklyn, or upon any board or officer thereof, or upon the corporation known as Long Island City, or upon any board or officer thereof, and upon any other municipal corporation, town or village, within the county of Richmond, or within so much of the territory of the county of Queens as is by this act annexed to the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, and consolidated into the municipality known as the city of New York, in any way relating to the regulating, grading, regrading, curbing, flagging and guttering of streets, the laying of crosswalks, the constructing and repairment of public roads, paving, repaving and repairing of all streets, and the relaying of all pavements removed for any cause, the filling of sunken lots and all matters directly related thereto, are hereby vested in the city of New York, as constituted by this act, and as matter of adminstration devolved upon the commissioner of highways, and by him are to be executed pursuant to the provisions, directions and limitations of this act.

TITLE 6.

DEPARTMENT OF STREET CLEANING.

Commissioner, appointment, term and salary.

Sec. 533. The head of the department of street cleaning shall be called the commissioner of street cleaning. He shall be appointed by the mayor and shall hold office as provided in chapter IV of this act. His salary shall be $7,500 a year.

Id. Jurisdiction.

Sec. 534. The commissioner of street cleaning shall have cognizance and control:

(1) Of the sweeping and cleaning of the streets of the city, and of the removal or other disposition as often as the public health and the use of the streets may require, of ashes, street sweepings, garbage and other light refuse and rubbish, and of the removal of snow and ice from leading thoroughfares and from such other streets as may be found practicable.

(2) Of the removal of incumbrances.

(3) Of the issue of permits to builders and others to use the streets, but not to open them.

(4) Of the framing of regulations controlling the use of sidewalks and gutters by abutting owners and occupants for the disposition of sweepings, refuse, garbage or light rubbish, which, when so framed and approved by the board of public improvements and the municipal assembly shall be published in like manner as city ordinances, and shall be enforced by the police department in the same manner and to the same extent as such ordinances.

Sec. 535. The term streets as used in this title shall not be deemed to include such macadamized streets as are within any park or are under control or management of the department of parks, nor such wharves, piers and bulkheads or slips and parts of streets and places as are by law committed to the custody and control of the department of docks and ferries.

Street cleaning department; members of; clerical and uniformed forces.

Sec. 536. The members of the department of street cleaning shall be divided into two general classes, to be designated, respectively, the clerical force and the uniformed force. The clerical force shall consist of a chief clerk, medical examiners, not exceeding three in number, and such and so many clerks and messengers as the commissioner of street cleaning shall deem necessary; but the aggregate salaries of the said clerical force shall not exceed in any year the amount appropriated therefor by the board of estimate and apportionment. The uniformed force shall be appointed by the commissioner of street cleaning and shall consist of one general superintendent, one assistant superintendent, one superintendent of stables, one superintendent of final disposition, one assistant superintendent of final disposition, district superintendents not exceeding twenty-one in number; time collectors, not exceeding eight in number; section foremen, not exceeding one hundred and twenty-five in number; dump inspectors, not exceeding forty-three in number; assistant dump inspectors, not exceeding forty-three in number; tug and scow inspectors, not exceeding twenty-five in number; sweepers, not exceeding thirty-one hundred in number; dump boardmen, not exceeding forty-three in number; drivers, not exceeding sixteen hundred in number; stable foremen, not exceeding twenty-one in number; assistant stable foremen, not exceeding twenty-one in number; hostlers, not exceeding one hundred and forty-six in number; a master mechanic and such and so many mechanics and helpers as may be necessary; but the aggregate salaries of such mechanics and helpers shall not exceed in any year the amount appropriated therefor by the board of estimate and apportionment. The commissioner of street cleaning shall have power and is hereby authorized to increase the said uniformed force,

from time to time, by adding to the number of sweepers, drivers and hostlers, provided the board of estimate and apportionment and the municipal assembly shall have previously made an appropriation for the purpose of permitting such increase. The annual salaries and compensations of the members of the uniformed force of the department of street cleaning shall be fixed by the board of estimate and apportionment and shall not exceed the following: Of the general superintendent, $3,000; of the assistant superintendent, $2,500; of the superintendent of stables, $2,000; of the master mechanic, $1,800; of the superintendent of final disposition, $2,000; of the assistant superintendent of final disposition, $1,500; of the district superintendents, $1,800 each; of the time collectors, $1,200 each; of the section foremen, $1,000 each; of the dump inspectors, $1,000 each; of the assistant dump inspectors, $900 each; of the tug and scow inspectors, $1,000 each; of the dump boardmen, $720 each; of the sweepers, $720 each; of the drivers, $720 each; of the stable foremen, $1,200 each; of the assistant stable foremen, $900 each; of the hostlers, $720 each. Hostlers may receive extra pay for Sundays if an appropriation therefor is made by the board of estimate and apportionment. The members of the department of street cleaning shall be employed at all such times and during such hours and upon such duties as the commissioner of street cleaning shall direct for the purpose of an effective performance of the work devolving upon the said department. In case of a snowfall or other emergency, the commissioner of street cleaning or the deputy commissioner may hire and employ temporarily such and so many men, carts and horses as shall be rendered necessary by such emergency, forthwith reporting such action with the full particulars thereof to the mayor, but no man, cart or horse shall be so hired or employed for a longer period than three days, except that any person registered or eligible to appointment as a driver or as a sweeper may be temporarily employed at any time as an extra driver or sweeper to fill the place of a driver or sweeper who is suspended or temporarily absent from duty from any cause. The rate of compensation of such extra drivers or sweepers shall be $2 per day, and the driver or sweeper whose place is so filled shall not receive any compensation for the time during which he is so absent from duty or his place is so filled, unless such injury or illness was contracted in the service of the department. The services of any person employed, and of carts and horses hired pursuant to this section, shall be paid for in full and directly by the department of street cleaning, at such times as may be prescribed by such department; and they, and each of them, shall be employed and hired directly by the department of street cleaning and not through contractors or other persons, unless the commissioner himself shall determine that this requirement must for proper action in a particular instance be dispensed with. Nothing herein contained shall affect any existing contracts made with or by the department of street cleaning in regard to the cleaning of Broadway below Fourteenth street in said city or the renewal therof, if deemed best by the commissioner of said department.

Id. Removal of members of clerical and uniformed forces.

Sec. 537. No member of the clerical force of the department of street cleaning shall be removed until he has been informed of the cause of the proposed removal and has been allowed an opportunity of making an explanation and in every case of removal the true grounds thereof shall be entered upon the records of the department. The commissioner of street cleaning shall have power, in his discretion, on evidence satisfactory to him that a member of the uniformed force has been guilty of any legal or criminal offense or neglect of duty, violation of rules, or neglect or disobedience of orders, or incapacity, or absence without leave, or conduct injurious to the public peace or welfare, or immoral conduct, or any breach of discipline, to punish the offending party by forfeiting or withholding pay for a specified time, suspension without pay during such suspension for a period not exceeding thirty days, or by dismissal from the force, but no more than thirty days' pay or salary shall be forfeited or deducted for any offense. The said commissioner is also authorized and empowered, in his discretion, to deduct and withhold pay, salary or compensation from any member or members of the force for and on account of absence for any cause without leave. All fines imposed and pay deducted or withheld under the provisions of this section, shall be retained by the controller to the credit of the apportionment for the department of street cleaning, and shall be applicable, in the discretion of the commissioner of street cleaning, to any of the purposes of said department, as if originally appropriated therefor. Absence without leave of any member of the uniformed force for five consecutive days shall be deemed and held to be a resignation, and the member so absent shall at the expiration of said period cease to be a member of said force and may be dismissed therefrom without notice. No leave of absence exceeding twenty days in any one year shall be granted or allowed to any member of the uniformed force, except upon condition that such member shall waive or release not less than one-half of all salary, pay or compensation and claim thereto or any part thereof during such absence. The said commissioner of street cleaning is hereby authorized and empowered, from time to time, to make, adopt, enforce rules, orders and regulations conformable to the provisions of this act for the government, administration, discipline and disposition of the said department and of the members thereof, and to prescribe and define the duties of each member. When and as soon as the member of the uniformed force has been fined, suspended, or dismissed the true cause for such fine, suspension or dismissal shall be entered in writing in a book to be kept for that purpose by the commissioner of street cleaning, which book shall be a public record. A copy of the rules and regulations or of any or either of them of the said commissioner adopted by him may, when certified by him or by his deputy be given in evidence upon any trial, investigation, hearing or proceeding in any court or before any tribunal, commissioner or commissioners, board or competent body, with the same force and effect as the original.

Members of department not liable to military or jury duty.

Sec. 538. No person holding any office or position under the department of street cleaning shall be liable to military or jury duty.

Division of streets into districts; allotment of sweepers.

Sec. 539. All the paved avenues, streets, lanes, alleys and places in said city which the department of street cleaning is by this act charged with the duty of cleaning, shall be cleaned and kept clean by hand labor, and for that purpose each sweeper shall provide himself with such tools and implements as the commissioner of street cleaning shall prescribe, and to each sweeper shall be allotted a fixed area of street surface according to the character of the locality, of which allotment a record shall be kept in the department of street cleaning, and shall be a public record, but nothing in this section contained shall be deemed to prevent the commissioner of street cleaning from causing the labor of the sweepers to be supplemented by the use of sweeping machines in such streets and avenues as to him may seem proper. It shall be the duty of the commissioner of street cleaning to divide the city into a suitable number of districts, not exceeding 21, each of which shall be under the charge and supervision of a district superintendent who shall be directly responsible to the general superintendent, and also to the commissioner of street cleaning for the cleanliness of his district. Each of said districts shall be by said commissioners subdivided into sections in charge of foremen responsible to the district superintendent, as well as to the general superintendent and to the commissioner of street cleaning for the cleanliness of his section. It shall be the duty of said commissioner of street cleaning to make such allotment and designation of the area to be covered and the duties to be performed by the uniformed force, that each member thereof, except the genral superintendent and his assistant shall have one particular district or section in which to perform all the work to which he is allotted. But nothing herein contained shall be so construed as to prevent the commissioner of street cleaning from transferring, at his discretion, members of the uniformed force, from one district or section to another, nor from temporarily employing all or any number of said uniformed force in a particular street or streets, section or sections.

Department of docks; to keep wharves, etc., clean.

Sec. 540. The department of docks shall have power and authority, and it is hereby made its duty to cause the wharves, piers, bulkheads, heads of slips and portions of any streets and places by law committed to the custody and control of said department of docks, to be thoroughly cleaned and kept clean at all times, and to remove from said wharves, piers, bulkheads, heads of slips and portions of streets and to dispose of all sweepings, ashes and garbage. And for the purpose of disposing of the sweepings and other refuse removed by said department of docks the said department of docks shall have the right and is hereby authorized to use concurrently with the said department of street cleaning such dumping boards, slips and piers as may be assigned to and set apart for the use of said department of street cleaning, and all contracts made by the commissioner of street cleaning under this act for the removal of ashes and garbage and sweepings shall provide for the removal of such ashes, garbage and sweepings as may be required to be removed by said department of docks.

Commissioner of street cleaning; power to obtain plant, supplies, etc.

Sec. 541. The said commissioner of street cleaning shall have power, and it shall be his duty, to purchase or hire from time to time for his use as such commissioner, at current prices, such and so many horses carts, steam tugs, scows, boats, vessels, machines, tools and other property as may be required for the economical and effectual performance of his aforesaid duty, or to contract for the construction of any such tugs, scows, boats, vessels, carts, machines, tools

or other property; or for the sweeping of streets and the removal of street sweepings by machine and also to contract for the cremation, utilization or burning of street sweepings, refuse and garbage; or for the melting or removal of snow upon or from any streets or avenues or parts thereof; the title to property so purchased or constructed shall be in the city of New York. All such hiring, or purchases, or contracts, however, exceeding $1,000 in amount at any one hiring or purchase, shall be let by contract to the lowest bidder therefor, founded on sealed bids or proposals made in compliance with public notice advertised in the City Record; such notice to be published at least ten days prior to the opening of such proposals or bids. Provided, that nothing herein contained shall prevent said commissioner, whenever it shall be necessary, to hire such boats, steam tugs, scows, vessels, machines, tools or other property for a day or trip, and for successive days or trips, without advertising or contract founded on sealed proposals or bids, at compensation by the day or trip, notwithstanding the aggregate compensation for such successive days or trips may exceed said sum of $1,000. The said commissioner is hereby authorized, whenever and as often as, in his opinion, the public interests shall require, to reject all bids or proposals received in answer to any such advertisement, and to re-advertise for bids and proposals as hereinafter provided. Whenever the said commissioner shall deem it necessary, he shall and is hereby authorized to sell, at public auction, any plant, material, horses, carts, scows or other property, used in any way in connection with the work of cleaning streets, but before any such sale shall be made a notice thereof stating the time and place of sale shall be published in the City Record and the corporation newspapers for at least ten days immediately preceding such sale, and the proceeds arising from such sale, after deducting the necessary expenses thereof, shall be paid into the city treasury to the credit of the general fund for the reduction of taxation. The said commissioner is hereby authorized, with the consent and approval of the board of sinking fund commissioners, to hire or lease suitable and sufficient offices for the transaction of the business under his charge, and also such stables and other buildings or parts of buildings or plots of ground as may, from time to time, be necessary. All carts used by said department of street cleaning shall be of such size, form and construction as to prevent escape during transit of dust, or of any refuse carried therein.

Piers, docks, slips, etc., for use of department

Sec. 542. The department, bureau or city officer, authority or authorities, which shall from time to time have the management and control of the public docks, piers and slips of the city, shall designate and set apart for the use of said commissioner suitable and sufficient slips, piers and berths in slips, located as the said commissioner may require, and such as shall be convenient and necessary for his use in executing the duty hereby imposed upon him, excepting slips, docks and piers on the East river set apart for the use of canal boats. The said commissioner may, with the approval, in writing, of the board of estimate and apportionment, lease piers, slips or wharves for the necessary purposes of the duties by this chapter conferred whenever suitable piers, slips or wharves owned by or under the control of the city cannot be obtained or are not set apart and designated as in this section provided.

Uniform, badges, etc., of uniformed force.

Sec. 543. The commissioner of street cleaning is hereby authorized and directed, from time to time, to prescribe distinctive uniforms, badges and insignia to be worn and displayed by the several members of the uniformed force of said department and to prescribe and enforce penalties for the failure to wear and exhibit the same by any member of said force while engaged in the work of the department.

Special contracts for disposition of sweepings, ashes, garbage, etc.

Sec. 544. Said commissioner shall have power to enter into contracts with responsible persons and parties for the final disposition, for periods not exceeding five years, of all or any part of the said street sweepings, ashes, or garbage, and such other light refuse or rubbish when collected; provided always that such contract shall be approved both as to terms and conditions by the board of estimate and apportionment. All contracts shall be entered into on behalf of the city by the commissioner with adequate security. He shall advertise for proposals in such newspapers in the city as he may designate, not exceeding three in number, for ten days, to perform the work in such form and manner and on such terms and conditions as he may prescribe. Such proposals may be for the performance of all or such part or portion of the work as he shall require. Each proposal must be accompanied by a certified check on a solvent banking incorporation in the city, payable to the order of the controller for 5 per cent. of the amount for which the work bid for is proposed in any one year to be performed. From the proposals so received he may select the bid or bids, the acceptance of which will, in his judgment, best secure the efficient performance of the work, or he may reject any or all of said bids. On the acceptance of any bid by him, the checks of the unaccepted bidders shall be returned to them, and upon the execution of the contract the check of the accepted bidder shall be returned to him. The surety or sureties upon all contracts hereby authorized shall be approved by the controller, and all contracts and bonds securing the same shall be approved as to form by the counsel to the corporation.

Proceedings for removal of trucks, etc., from streets, regulated.

Sec. 545. It shall be the duty of the commissioner of street cleaning to remove, or cause to be removed, all unharnessed trucks, carts, wagons and vehicles of any description, found in any public street or place; and also all boxes, barrels, bales of merchandise and other movable property found upon any public street, or place, not including, however, any portion of marginal street, or place, or wharf, which, by the provision of any law or statute, is committed to the custody and control of the department of docks. The said commissioner of street cleaning is hereby authorized, with the consent and approval of the board of sinking fund commissioners, to lease a suitable yard or yards to which the trucks, carts, wagons and vehicles, boxes, bales, barrels and other things, removed under the authority of this section, shall be taken, and the said commissioner shall, from to time, as often as he shall deem necessary, sell, or cause to be sold, as hereinafter provided at public auction, at such yard or yards, the said trucks, carts, wagons, vehicles, boxes, barrels, and other things so removed. Whenever the said commissioner or deputy commissioner shall have removed or caused to be removed any such trucks, carts, wagons, vehicles, boxes, barrels, bales or other things, and shall deem it necessary to sell them, and before making the sale thereof, he shall file with a justice of a municipal court of the city of New York, a written petition, verified by oath, setting forth the facts which bring the case within this section, together with a brief description of each of the trucks, carts, wagons, vehicles, boxes, barrels or other things so removed in his custody and possession as street cleaning commissioner at the time of filing such petition, stating either the name of the owner or that his name is not known to the said petitioners, and cannot be ascertained with reasonable diligence, and praying for a final order, directing the sale of the property so seized and removed, and the application of the proceeds thereof as herein prescribed; and upon the presentation of said petition the justice must issue a precept under his hand, directed to the persons whose names appear in the said petition as owners, if stated in the petition, or if not so stated, directed generally to all persons having any interest in the property so seized and removed, and briefly reciting in substance the other facts stated in the petition, and requiring the person or persons to whom the precept is directed to show cause before a justice at a time and place specified therein, not less than ten nor more than twenty days after the issuing of the precept, why the prayer of the petition should not be granted. The said precept shall be served by posting a copy thereof in at least two public and conspicuous place in said city, one of which shall be the office of the said commissioner of street cleaning, and the second of which shall be the yard to which the property shall have been removed, and a copy of which precept shall be so posted within three days after the precept shall have been issued; and a brief abstract of said precept shall be published in the City Record and corporation newspapers within five days after the issue, and not later than three days before the return day mentioned in the precept. At the time and place when the precept is returnable the said commissioner or deputy commissioner must furnish proof of the service of said precept as herein prescribed, and any person named in the petition and precept or otherwise, having an interest in the property seized, may appear on the return day of the said precept and make himself a party to the proceeding by filing a written answer, subscribed by him or his attorney, and verified by the oath of the person subscribing it, denying absolutely, or upon information and belief, one or more material allegations in the petition, and setting forth his interest in the property seized. The subsequent proceedings before the justice shall be the same as in the action in the municipal court where an issue of fact has been joined, and if the decision of the justice is in favor of the petitioner, the justice must make a final order, the same as though no appearance or trial were had, except to recite the appearance and trial before him. If no person appears and answers the justice shall make a final order, directed to the commissioner of street cleaning, commanding him to sell, at public auction, all of the property seized and described in the petition, at the yard to which said property was removed, for the best price which he can obtain therefor. Before making any such sale the said commissioner or deputy commissioner shall give public notice in the City Record, and corporation papers, as by this act prescribed, not later than three days before the day of such sale, and such notice of sale

shall specify the time and place of such sale, and shall contain a general description of the property to be sold, but no particular description of any article shall be contained therein.

The sale shall be made at the time and place specified in said notice of sale by the commissioner or deputy commissioner, or by an auctioneer designated for such sale by said commissioner. Immediately after such sale the commissioner of street cleaning shall pay to the controller the proceeds of such condemnation and sale, and shall, at the same time, transmit to the controller an itemized statement of the articles sold, with the price received for each article and a certificate of the costs and expenses incurred by the said commissioner in making such condemnation and sales. The controller shall credit and add to the appropriation for the department of street cleaning from the proceeds of such sale the amount of said costs and expenses of such condemnation and sales, as hereinbefore provided, and, in addition thereto, such an amount for each incumbrance seized or taken, condemned and sold as hereinbefore provided, not to exceed ten dollars, as may be estimated and fixed by the commissioner of street cleaning as necessary to pay the cost of seizing, removing and keeping or storing such incumbrances; and the remainder of the moneys realized from such sale shall be paid, without interest, to the lawful owners of the several articles sold. Any payment to a person apparently entitled thereto, under the provisions of this section, shall be a good defense to the city against any other person claiming to be entitled to such payment, but if the person to whom such payment is made be not in fact entitled thereto, it shall be lawful for the person or persons to whom the same ought to have been paid to recover the same with interest and costs of suit as so much money had and received to his, her or their use by the person or persons to whom the same shall have been paid. The owner of any truck, cart, wagon, vehicle, box, barrel, bale or other thing removed from any public street or place under the provisions of this section, may redeem his property at any time after its removal upon payment to the commissioner of street cleaning of such sum as he may fix, not to exceed ten dollars for each article redeemed. The sum thus paid shall be immediately transmitted to the controller, and by him added and credited to the appropriation for the department of street cleaning, under the provisions of this act, and may be used by the commissioner for any of the purposes of said department, as if originally included in the appropriation thereof, by the board of estimate and apportionment. Nothing in this section contained shall be deemed to authorize the summary removal of materials for any public work or improvement in course of construction.

Limitation of amount of expense for street cleaning. Bonds to be issued by controller for purchase of plant.

Sec. 546. In no case, except as in this section provided, shall the amount expended by the commissioner of street cleaning exceed the amount appropriated for the said department by the board of estimate and apportionment and the municipal assembly, but, for the more effectual carrying out of the provisions of this act, the said commissioner of street cleaning may, with the approval of the board of public improvements and of the board of estimate and apportionment, purchase or construct stock or plant, including houses, dumping boards or places or buildings or structures necessary for any purpose pertaining to the business of the department, of durable character intended to be used for a term of years, to be paid for by the issue and sale of bonds, and the controller shall issue such bonds as may be necessary for such purpose. Such bonds shall be of such amount and to run for such term as may be determined by said controller, by and with the authority of the municipal assembly, not less than ten, nor more than fifty years, and shall bear interset not exceeding 4 per cent. per annum and shall not be sold at less than the par value thereof. If the necessary cost of removing snow or ice from the streets and avenues shall, in any one year, exceed the amount appropriated therefor, the board of estimate and apportionment may authorize such additional expenditure as may be required for the removal of such snow or ice to be paid out of any unexpended balance of the appropriation made for the purposes of said department; and the controller shall raise the amount of such additional expenditure by the issue and sale of revenue bonds, and shall place the amount so raised to the credit of the department of street cleaning, to supply the amount of the deficiency occasioned by such additional expenditure.

Devolution of powers of former boards.

Sec. 547. All the powers and duties conferred upon the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or upon any board or officer thereof, or upon the corporation known as the City of Brooklyn, or upon any board or officer thereof, or upon the corporation known as Long Island City, or upon any board or officer thereof, and upon any other municipal corporation, town or village, within the county of Richmond or within so much of the territory of the county of Queens as is by this act annexed to the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, and consolidated into the municipality known as the city of New York, relating in any way to the sweeping and cleaning of the streets, avenues, highways, boulevards, squares, lanes, alleys and other public places of the city, and of the removal, or other disposition as often as the public health and the use of the streets may require, of ashes, street sweepings, garbage and other light refuse and rubbish, and of the removal of snow and ice from leading thoroughfares and from such other streets as may be found practicable; of the removal of encumbrances; of the issue of permits to builders and others to use the streets, avenues, highways, boulevards, squares and public places, but not to open them; of the framing of regulations controlling the use of sidewalks and gutters by abutting owners and occupants for the disposition of sweepings, refuse, garbage or light rubbish, are hereby vested in the city of New York, and as matters of administration devolved upon the commissioner of street cleaning of said city, to be by him executed pursuant to the powers, provisions and limitations of this act.

TITLE 7.

DEPARTMENT OF SEWERS.

Commissioner of sewers; appointment; salary.

Sec. 555. The head of the department of sewers shall be called the commissioner of sewers. He shall be appointed by the mayor and hold office as provided in chapter IV of this act. His salary shall be $7,500 a year.

Id. Jurisdiction and duties; salary.

Sec. 556. The commissioner of sewers shall have cognizance and control of all subjects relating to the public sewers and drainage of the city, and shall initiate the making of all plans for the drainage of the city, except as otherwise specifically provided in title 2 of this chapter. He shall have charge of the construction of all sewers in accordance with said plan. He shall prepare and execute all contracts and specifications relating to the sewers for submission to the board of public improvements, and shall supervise all work done under such contracts. He shall have in charge the management, care and maintenance of the sewer and drainage system of the city and the licensing of all cisterns and cesspools.

Overflow sewers may be constructed.

Sec. 557. Any overflow sewers which may be deemed necessary for the relief of any main sewers now constructed or which may hereafter be constructed in said city, may be discharged into the waters adjacent to said city, or into the Gowanus canal, or any other canal or inlet in said city, at such points as in its judgment may be most convenient.

Canals to be kept free from obstructions.

Sec. 558. It shall be the duty of the city of New York to keep any canal free from any obstructions that may be occasioned by the reason of the emptying of said overflow sewers into it, and for that purpose the department of sewers of said city is authorized and directed to dredge the same from time to time.

Commissioner; power to construct temporary sewers; expenses of same.

Sec. 559. Whenever it shall become necessary to construct a sewer or drain for the purpose of preventing damage to property or to abate a nuisance, and it shall become impracticable to proceed immediately to the construction of the same in accordance with any plan already adopted, pursuant to title 2 of this chapter, on the approval of the board of public improvements, the said commissioner shall have power to construct a temporary sewer or drain in such manner as to avoid such damage or to abate such nuisance, and the cost of such temporary sewer or drain shall be assessed upon the property draining into the same and benefited thereby. And such assessment shall be enforced, levied and collected in the manner provided in chapter XVII of this act.

Permits for construction of private sewers; procedure. Becomes property of city when paid for by, etc.

Sec. 560. A permit for the construction of sewers in the streets of said city by private property owners shall only be granted upon the parties proposing to construct such sewer first filing with the commissioner of sewers, plans and specifications of such proposed sewer, conforming to the general plan for the construction of public sewers in said city, on file in the office of the board of public improvements and a duplicate copy of the contract for the construction of such sewer, showing the cost of the construction thereof, together with a satisfactory guarantee to said commissioner for the payment of the necessary expense of the said department of sewers, in the supervision of the construction of said sewer. And upon approval of such plans, specifications and contracts, by the commissioner of sewers and the board of public improvements the said commissioner shall issue his permit for the construction of such proposed sewer and shall forthwith request the board of assessors to apportion the cost of the construction of said sewer according to actual benefit between the several parcels of property abutting on each side of that part

of the street through which said sewer shall be constructed. The said board of assessors shall as soon as practicable report such apportionment of such cost to the said commissioner of sewers. Said commissioner shall grant permits for connection with said sewer, to be constructed as aforesaid, only to such owners or occupants of the property abutting on that part of such street through which said sewer shall be constructed as shall produce to said commissioner of sewers satisfactory proof of the payment by him or them to the parties who constructed and paid for such sewer, of the amount of the proportionate part of the cost of the construction of said sewer apportioned as aforesaid to the property sought to be connected with said sewer, and no permit shall be issued for, nor shall any connection be allowed with said sewer, nor with any sewer heretofore constructed by the owners of the abutting property by private contract from any abutting property until the proportionate part of the expense of the construction of such sewer shall have been paid to the parties entitled thereto by the owners of such abutting property, and satisfactory proof thereof made to said commissioner of sewers.

And when constructed, except for the purpose of supervision, maintenance and use by the city of New York in connection with its public sewer system, said sewer shall be deemed the private property of the persons who shall have paid for its construction until the owners of all the property abutting on that part of the street or avenue in which said sewer shall be laid, shall have paid their several shares of the cost of the construction of said sewer, but when the same shall have been fully paid for by all the owners of abutting property, then the same shall be the property of the city of New York, and deemed to have been fully dedicated to said city.

Id. Power to acquire lands for sewers.

Sec. 561. The city of New York is authorized to acquire title for the use of the public to all or any of the lands and premises required for sewers or to easements therein for that purpose, whether the same be above or below high water mark or under water.

The board of public improvements, at the request of the commissioner of sewers, is authorized to direct the same to be done.

It shall be the duty of the corporation counsel, when requested in writing by the board of public improvements, immediately to institute a proceeding to acquire title for the use of the public to the lands and premises or easements therein, required for the building of sewers or drains, in the same manner that is provided by this act for the acquisition of lands for the purpose of opening streets.

The expenses incurred in the acquisition of such lands and premises, with the buildings and improvements thereon, so far as the same shall be taken in such a proceeding, shall be assessed in accordance with the provisions of this act relating to the opening of streets upon all the property deemed by the commissioners of estimate and assessment appointed in such proceeding to be benefited by the acquisition of such lands for such purpose, and upon the owners thereof or persons interested therein.

Proposals and contracts for sewerage work.

Sec. 562. The commissioner of sewers, upon the completion of the plan of sewerage of any district, upon the filing of copies thereof, as required by title 2 of this chapter, or as soon thereafter as may be deemed convenient and necessary, shall, with the approval of the board of public improvements, cause printed specifications to be made in accordance with said plan of the work proposed to be done in said district, and shall thereupon invite proposals in the manner now required by law, and shall contract for the whole or any part of the work in said district.

Commissioner authorized to purchase supplies.

Sec. 563. In order to provide for the more effectual and economical construction of sewers, the commissioner of sewers, with the approval of the board of public improvements, may contract in pursuance of law for such materials used in the construction of sewers and in such quantities as he may deem proper, and it shall be the duty of the controller, out of the appropriate fund or from the proceeds of assessment bonds authorized to be issued, upon the requisition of said commissioner, to pay for such materials, and the expenses for engineers, surveyors, inspectors or other persons employed by authority of said commissioner in the construction of sewers.

Penalty for injury to sewers.

Sec. 564. All provisions of law creating civil and criminal liabilities from wrongs and injuries done to the water works of the city of New York and providing remedies for the redress thereof, and the prosecution and punishment of persons committing the same, shall apply in like manner and extent to wrongs and injuries done to sewers in the said city.

Devolution of powers of the commissioner of street improvements in the 23d and 24th wards.

Sec. 565. All the powers, privileges and duties of the commissioner of street improvements in the Twenty-third and Twenty-fourth wards of the city of New York, as heretofore constituted, which in any way relate to the public sewers and drainage of the said Twenty-third and Twenty-fourth wards, and to the construction, repair and cleansing of sewers and underground drains, and of the licensing of the cisterns and cesspools therein, and of all matters in any way relating to the construction, maintenance and care of the sewer system and drainage of said wards, are hereby vested in the city of New York, as hereby constituted, and as matter of administration devolved upon the commissioner of sewers of the city of New York to be by him executed in accordance with the provisions, directions and limitations of this act.

Devolution of powers of former boards.

Sec. 566. All powers and duties heretofore conferred upon the city of New York as heretofore known and bounded, or any of the officers thereof, or upon the city of Brooklyn, or any of the officers thereof, or upon Long Island City, or any of the officers thereof, or upon any board of public officers acting within any of the territory of the county of Richmond, or within that part of the territory of the county of Queens, hereby annexed by this act to the corporation known as the mayor, aldermen and commonalty of the city of New York, and by this act consolidated into one municipal corporation, which in any way relate to the public sewers and drainage of the said cities, municipal corporations, towns or territory, and to the construction, repair and cleansing of sewers and underground drains and of the licensing of cisterns and cesspools therein and to all matters in any way concerning the construction and care of the sewer system and drainage thereof, so far as such powers and duties are consistent with and conformable to the provisions of this act, are hereby vested in the city of New York, and as matter of administration devolved upon the commissioner of sewers of New York, to be by him executed in accordance with the provisions, directions and limitations of this act.

TITLE 8.

THE DEPARTMENT OF PUBLIC BUILDINGS, LIGHTING AND SUPPLIES.

Commissioner; appointment, term, salary.

Sec. 572. The head of the department of public buildings, lighting and supplies shall be called the commissioner of public buildings, lighting and supplies. He shall be appointed by the mayor and hold office as provided in chapter IV of this act. His salary shall be seven thousand five hundred dollars a year.

Id. Jurisdiction.

Sec. 573. The commissioner of the department of public buildings, lighting and supplies shall have cognizance and control of

(1) The construction, repairs, cleaning and maintenance of public buildings, except school houses, alms houses, penitentiaries and the like, and fire and police station houses.

(2) Of the making and performance of contracts when duly authorized in accord with the provisions of this act, and for the execution of the same in the matter of furnishing the city, or any part thereof, with gas, electricity or any other illuminant; of the selecting, locating and removing and changing of lights for the use of the city; of the inspecting and testing of gas and electricity used for light, heating and power purposes, gas meters, electric meters, electric wires and of all lights furnished to said city; and of the use and transmission of gas, electricity, pneumatic power and steam for all purposes in, upon, across, over and under all streets, roads, avenues, parks, public places and public buildings; of the construction of electric mains, conduits, conductors and subways in any such streets, roads, avenues, parks and public places, and the granting of the permission to open streets, when approved by the department of highways, and to open same for the purpose of carrying on therein the business of transmitting, conducting, using and selling electricity, steam, or for the service of pneumatic tubes.

(3) Of the care and cleaning of all offices leased or occupied for public uses.

(4) Of the location, care, management and maintenance of the public baths.

(5) Of the location, erection, establishment and maintenance of public urinals.

(6) Of the purchase of fuel, furniture, utensils, books, stationery and other articles needed for the public offices, which are to be furnished upon the receipt of a written requisition signed by the head of the department or office in which the same is required, and by the principal officer in charge of the sub-division. The said commissioner shall prepare all contracts relating to his department for submission to the board of public improvements.

Consulting engineer; duties.

Sec. 574. The consulting engineer of lighting and electricity shall, when requested by the commissioner of public buildings, lighting and supplies, examine problems arising from the use of gas and electricity and steam affecting public interests in said city from time to time, and shall report thereon to the said commissioner from time to time as he may be required. He shall recommend to the said commissioner proposed ordinances for the use and control of gas and electricity and steam, which the said commissioner may submit to the board of public improvements; and he

shall perform such other duties as the said commissioner may from time to time require.

Commissioner; to cause tests to be made, etc.

Sec. 575. The said commissioner shall cause tests to be made of all gas used for lighting, heating and power purposes, shall cause inspections to be made of gas and electric lights furnished to the city, and of gas meters and electric meters and electric wiring, as such tests may be provided for by the proper appropriation; the said commissioner shall cause tests to be made of all meters in use in said city for measuring or ascertaining the quantity of gas or electricity or steam furnished by any corporation or person in said city within one year after this act shall take effect; and thereafter no corporation or person shall furnish or put in use any gas or electric or steam meter which shall not have been inspected, approved and sealed by the inspectors, and every such corporation or person shall provide and keep in or upon their premises a suitable and proper apparatus to be approved and sealed by the inspector for testing and proving accuracy of meters furnished for use by them. Whenever a meter shall be inspected the inspector shall attach thereto some seal, stamp or mark, with the inspector's name, the date of his inspection, and whether or not the meter is accurate. Meters in use shall be re-inspected and tested on the written request of the consumer, or of the company, in the presence of the consumer, if desired. If any such meter on being so tested shall be found defective or inaccurate to the prejudice or injury of the consumer, the necessary removal, inspection, correction and replacing of such meter shall be without expense to the consumer; but in all other cases, except where the change is beneficial to the company, he shall pay the reasonable expense of such inspection, and the re-inspection shall be stamped on the meter. Provided, however, that nothing herein contained shall be construed as requiring to be sealed, electrolytic or other electric meters, which in their construction or use are not susceptible of being sealed, nor the apparatus employed in taking the usual periodic readings therefrom; but all such meters shall, in all other respects, be tested and stamped in the manner provided herein for other meters; and every corporation using such electrolytic or other meters shall at all times admit the inspectors of meters at its meter department and reading rooms, and permit the inspection by him of all meters and of all the processes, methods and operations of measuring electric current consumed by it.

Laws repealed.

Sec. 576. The provisions of sections 62, 63 and 64 of chapter 40 of the general laws, known as the transportation corporations law, are hereby repealed in so far as they affect the inspection of gas meters and electric meters within the city of New York.

Interest in manufacture of gas, etc., and certain acts by officers, etc., of department prohibited.

Sec. 577. No officer, agent or employe of the department of public buildings, lighting and supplies shall in any way, directly or indirectly, be interested, pecuniarily, in the manufacture or sale of gas, or of electricity, or steam, or of gas or electric or steam meters, or of any article or commodity used by gas or electric companies, or used for any purpose for the consumption of gas or of electricity, or steam, or in or with a gas or electric or steam company, and no such officer, agent or employe shall give certificates or written opinions to a maker or vendor of any such article or commodity.

Inspection of illuminating gas; tests.

Sec. 578. The illuminating gas of every company shall be inspected at least twice a year, and may be inspected as frequently as the commissioner may think best, but not oftener than once a week. The gas shall be tested for illuminating power by means of a disc photometer, or other approved apparatus, and during such test shall be burned from a burner best adapted to it, which is at the same time suitable for domestic use, and at as near the rate of five feet per hour as is practicable. When the gas of any such company shall be found on three consecutive inspections to be of an illuminating power less than twenty sperm candles of six to a pound, and burning at the rate of one hundred and twenty grains of spermaceti per hour, tested at such place as the said commissioner shall specify by a burner consuming five cubic feet of gas per hour, and shall not comply with the reasonable and proper standard of purity as fixed by said commissioner, a fine of one hundred dollars shall be paid by such company to the city.

Commissioner to submit proposed ordinances relative to wires, etc.

Sec. 579. The said commissioner shall from time to time submit for the consideration of the board of public improvements such proposed ordinances in regard to electric wires, appliances and currents for furnishing light, heat or power when introduced into or placed in any building in said city. Such proposed ordinances shall prescribe the method of construction, operation, location, arrangement, insulation and use of such wires, appliances, and currents, as said commissioner shall from time to time deem necessary for the protection of life and property.

Inspector of electric wiring; qualifications; all wires to be inspected; rules, notices, etc.; penalty for violation.

Sec. 580. Any inspector of electric wiring appointed in the department shall have a technical and practical knowledge of the construction and operation of electrical lines and appliances. After this act takes effect, the commissioner shall cause to be inspected all such wires, currents and appliances that may be introduced into or placed in any building in said city, and the said commissioner shall furnish a certificate of such inspection to any person or corporation applying therefor. All notices of the violation of any of the provisions of this section, or of any ordinances relating to said department, or any regulations, rules or orders made thereunder relating to electrical wires, currents or appliances, shall be issued and served in the manner provided in this act for the service of notices. The violation of any of the provisions of this section or of any of the said ordinances or any rules or regulations thereunder shall be deemed to be a violation of the provisions of the department of buildings of said city, and shall subject the person or corporation committing the same to the penalties prescribed herein for such violations.

Removal of electric wires.

Sec. 581. Whenever in the opinion of the board of public improvements it shall be practicable to remove the electrical conductors above ground in any street, avenue, highway or public place of that part of the city of New York which lies within the boroughs of Manhattan and the Bronx, after the grade of said street, avenue or highway shall have been finally determined and established, and to place the same underground, the commissioner of public buildings, lighting and supplies shall notify the owners or operators of the electrical conductors above ground that such electrical conductors must be removed within a certain time to be fixed by said commissioner, which time shall be sufficient for such removal, and in the case of a corporation duly authorized to lay and operate electrical conductors underground in such street, avenue, highway or public place, sufficient also for the proper laying of conductors underground in place of those removed. All electrical conductors authorized to be placed underground, shall be placed underground under and in accordance with the provisions of chapter seven hundred and sixteen of the laws of one thousand eight hundred and eighty-seven, chapter two hundred and thirty-one of the laws of one thousand eight hundred and ninety-one, chapter two hundred and sixty-three of the laws of one thousand eight hundred and ninety-two, and the laws amendatory thereof and supplemental thereto. Whenever application shall be made to said commissioner of public buildings, lighting and supplies, for permission to place underground electrical conductors in any street, avenue, highway, or public place of that part of the city of New York which lies within the boroughs of Manhattan and the Bronx, the subways therefor shall, if such permission be granted, be constructed or provided, and such electrical conductors placed underground under and in accordance with said laws. But such permission shall be granted only in accordance with the provisions of said laws.

Underground electrical conductors.

Sec. 582. Whenever the said board of public improvement shall deem it desirable and practicable, after hearing all parties interested, that the electrical conductors in any street, avenue, highway or public place of the city of New York, lying within the boroughs of Brooklyn, Queens and Richmond, be placed underground, the said commissioner shall notify the owners or operators of the electrical conductors above ground in any such street, avenue, highway or public place, that said electrical conductors shall be placed underground within a certain time to be fixed by the said commissioner, which said time shall be sufficient for the proper construction of underground conduits or other channels in said street, avenue, highway or public place. Whenever any duly authorized company operating or intending to operate electrical conductors in any street, avenue, highway or public place in that part of the city of New York which lies within the boroughs of Brooklyn, Queens and Richmond, shall desire to place its conductors or any of them underground, it shall be obligatory upon such company to file with the commissioner of public buildings, lighting and supplies, a map or maps made to a scale, showing the streets or avenues or other highways or public places which are desired to be used for such purpose, and giving the general location, dimensions and course of the underground conduit desired to be constructed. Before any such conduit shall be constructed it shall be necessary to obtain the approval by said commissioner of said plan of construction so proposed by such company, and said commissioner shall have power to require that the work of removal and of constructing every such system of underground conductors shall be done according to such plan so approved.

Id. Procedure when board of public improvements determines upon

Sec. 583. Whenever the commissioner of public buildings, lighting and supplies, in accordance with the resolution of the board of

public improvements, shall notify the owners or operators of any electrical conductors in the city of New York, that said conductors shall be removed or placed under ground within a certain time, the time within which said electrical conductors shall be placed under ground shall be fixed by the said commissioner, giving all persons or corporations owning or operating such electrical conductors, an opportunity to be heard on the question of the time necessary to place said conductors underground, and after hearing the engineer of lighting and electricity, and such other expert opinion as the said commissioner may think advisable. Said owners or operators of electrical conductors above ground in such street or locality shall be required to remove all of said poles, wires or other electrical conductors and supporting fixtures or other devices from any such street or locality within thirty days after the expiration of the time so fixed by said commissioner.

Id. Permit necessary to take up pavement, etc. Board of public improvement to determine method of extension. Municipa assembly may enact ordinances regulating use, etc.

Sec. 584. It shall be unlawful, after the passage of this act, for any person or corporation to take up the pavement of any of the streets and parks of said city, or to excavate for the purpose of laying underground any electrical conductors, or to construct subways, unless permission in writing therefor shall have been first obtained from the said commissioner of public buildings, lighting and supplies, indorsed by the commissioner of highways. And except with a like permission therefor no electrical conductors, poles, wires or other electrical devices or fixtures shall be constructed, erected, strung, laid or maintained above or below the surface of any street, avenue, highway or other public place, in any part of said city. And the said commissioner of public buildings, lighting and supplies shall determine whether any extension of the existing electrical conductors of any person or corporation in said city shall be by means of overhead or underground conductors. And the municipal assembly may establish, and may from time to time enact ordinances regulating all the construction, maintenance, use and management of the electrical conductors, poles and fixtures above ground, the conduits and subways therefor constructed underground, and for regulating the number and location of overhead lines.

The four preceding sections to be police regulations.

Sec 585. The provisions of the four preceding sections of this act are made police regulations in and for the city of New York, and in case the several owners of said poles, wires or other electrical conductors, fixtures, and devices shall not cause them to be removed from such streets or localities as required by said commissioner or by the determination of the board of public improvements, or shall neglect or refuse to comply with any of the ordinances as herein provided, it shall be the duty of the said commissioner to cause the same to be removed from said streets, roads, avenues, lanes, parks and public places.

Former boards to turn over maps, etc., to commissioner.

Sec. 586. The board of electrical control in and for the city of New York and the mayor and commissioner of city works of the City of Brooklyn, acting as commissioners of electrical subways of the city of Brooklyn, are hereby required and directed to turn over and deliver to the commissioner of public buildings, lighting and supplies, within thirty days after this act shall take effect, all maps, plans, models, books and papers relating to the construction and location of electrical conductors, conduits or subways filed with or communicated to said commissioner, and all official records and papers of every kind in their possession.

Separate contracts for lighting each borough; duty of commissioner.

Sec. 587. The commissioner of lighting and electricity under and in conformity to the ordinance regulating contracts shall prepare the terms and specifications under which contracts shall be made for lighting the streets, public buildings and parks of said city. Separate contracts shall be made for such lighting in each of the boroughs of the city of New York, or in such subdivisions of the city as may appear to the board of public improvements and the municipal assembly to be for the best interests of said city. The number, kind and location of lights to be furnished under each of said contracts shall be determined and prescribed by the commissioner of public buildings, lighting and supplies. Such bids shall be prepared and advertised for, and such contracts shall be executed in the manner prescribed for herein as to other contracts entered into by said city or the departments thereof.

Contracts shall be made for the term of one year and shall be awarded to the lowest bidder, unless the board of public improvements by a vote of a majority of its members, of whom the mayor and controller shall be two, shall determine that it is for the public interest that a bid other than the lowest should be accepted. Contracts made for a given borough or district shall include all lights of a given kind used by said city in said borough or district then ordered or thereafter to be ordered by the said commissioner during the term of said contract. But no bid shall be entertained unless the said commissioner shall be satisfied that the party or parties bidding are possessed of sufficient plant to carry out the provisions of the contract.

Devolution of powers of former boards.

Sec. 588. All powers and duties conferred or imposed upon the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or upon any of the officers, or any board thereof, or upon the board of electrical control in and for the city of New York, or upon the corporation known as the City of Brooklyn, or upon any of the officers or any board thereof, or upon any board of commissioners of electrical subways therein, or upon the corporation known as Long Island City, or upon any of the officers, or any board thereof, or upon any other municipal corporation, town or village, or any board of public officers existing or acting within the territory of the county of Richmond, or within so much of the territory of the county of Queens as is by this act annexed to the corporation known as the mayor, aldermen and commonalty of the city of New York, so far as such powers and duties in any way relate to the construction, repairs, cleaning and maintenance of public buildings, including markets, except school houses, alms houses, penitentiaries and the like, and fire and police station houses, and to furnishing the city, or any part thereof, with gas, electricity, or any other illuminant, or of steam; the selecting, locating and removing and changing of lights for the use of the city; the inspecting and testing of gas and electricity used for light, heating and power purposes, gas meters, electric meters, electric wires and of all lights furnished to said city; and the use and transmission of electricity for all purposes in, upon, across, over and under all streets, roads, avenues, parks, public places and public buildings; the construction of electric mains, conduits, conductors and subways in any such streets, roads, avenues, parks and public places and the granting of the permission to open streets and to open same for the purpose of carrying on therein the business of using and selling electricity or steam, or for the service of pneumatic tubes, the care of all offices leased or occupied for public uses; the location, care, management and maintenance of the public baths; the location, erection, establishment and maintenance of public urinals; the purchase of fuel, furniture, utensils, books, stationery and other articles needed for the public offices, so far as such powers are consistent with and conformable to the provisions of this act, are hereby conferred and imposed upon the city of New York as constituted by this act, and as a matter of administration are devolved upon the commissioner of public buildings, lighting and supplies, to be by him exercised, performed and executed according to the provisions, directions and limitations of this act.

TITLE 9.

DEPARTMENT OF BRIDGES.

Commissioner, appointment, term and salary.

Sec. 594. The head of the department of bridges shall be called the commissioner of bridges. He shall be appointed by the mayor and hold office as provided in chapter IV of this act. His salary shall be seven thousand five hundred dollars a year.

Id. Jurisdiction.

Sec. 595. The commissioner of bridges shall have cognizance and control—

(1) Of the management and maintenance of the New York and Brooklyn bridge.

(2) Of the operation of the railroad on the New York and Brooklyn bridge.

(3) Of the collection of fares and of tolls on the New York and Brooklyn bridge.

(4) And of the construction, repair, maintenance and management of all other bridges that may at any time hereafter be constructed in whole or in part at the expense of the city of New York, or that may be acquired by said city.

(5) Of the construction, repair and maintenance of all other bridges that are or may be in whole or in part a public charge, not included in public parks, within the territory of the city of New York, except the East river bridge, authorized by chapter 789, laws of 1895.

Id. To make daily report to controller.

Sec. 596. The said commissioner shall keep accurate accounts of all moneys received or collected by his department for fares, tolls and any other purposes, in such form as the controller of the city or the ordinances of the municipal assembly shall require, and he shall pay over the same daily to the chamberlain and make a daily report of the same to the controller.

Persons not affected by passage of this act; exceptions.

Sec. 597. The engineers, officers and subordinates, with the exception of the attorneys and counsel of the New York and Brooklyn bridge in office or employment at the time of the passage of this act and heretofore appointed by the trustees of the New York and Brooklyn bridge shall not be affected by the passage of this act so far as their positions are concerned, but shall continue to hold such

places and positions under the commissioner of bridges, subject to the provisions of this act.

The New York and Brooklyn bridge, a public highway.

Sec. 598. The New York and Brooklyn bridge is hereby declared to be a public highway for the purpose of rendering travel between the boroughs of Manhattan and Brooklyn certain and safe at all times, subject to such tolls and prudential and police regulations as the municipal assembly shall adopt and prescribe; provided, however, that the passageway of the bridge now set apart for foot passengers shall remain free and open to all pedestrians coming or going at all times.

Concurrent jurisdiction in boroughs of New York and Brooklyn over crimes, etc., committed on the said bridge.

Sec. 599. Concurrent jurisdiction shall be possessed by all courts located in the borough of Manhattan, and by all courts located in the borough of Brooklyn, and by the judicial and administrative offices of the city of New York, over all crimes and offenses, committed upon said bridge and upon any other bridge that may hereafter be erected between the two boroughs. It shall be the duty of the said commissioner of bridges and he hereby is authorized to execute the ordinances of the municipal assembly, relative to said bridges and to have in immediate charge the control and disposition of such members of the police force of the city of New York, as may be assigned for duty in his department.

Certain acts declared to be misdemeanors, penalties for.

Sec. 600. Any person willfully doing any injury to any of said bridges or any of their appurtenances, shall forfeit and pay to the said city of New York three times the amount of such injury, and shall be deemed guilty of a misdemeanor and be subject to a penalty not exceeding five hundred dollars, and to imprisonment not exceeding six months, in the discretion of the court.

Devolution of power of former boards, etc.

Sec. 601. Upon the appointment of the commissioner of bridges the respective offices of the trustees of the New York and Brooklyn bridge shall be and they hereby are declared abolished and all the powers and duties vested in and devolved upon said trustees of the New York and Brooklyn bridge by any law or statute shall, so far as they are consistent with and conformable to the provisions of this act, be devolved upon the commissioner of bridges of the city of New York and upon the municipal assembly, and they shall in all respects exercise such duties and perform such powers, subject, however, to the provisions, directions and limitations of this act.

CHAPTER XI.

DEPARTMENT OF PARKS.

Title 1. The parks of the city.
2. The art commission.

TITLE 1.

THE PARKS.

Administrative jurisdiction; board; president; salaries; branch offices.

Sec. 607. The head of the department of parks shall be called the park board. Said board shall consist of three members, who shall be known as commissioners of parks of the city of New York. They shall be appointed by the mayor and shall hold their respective offices as provided in chapter IV of this act. One of said commissioners shall be the president of the board, and shall be so designated by the mayor. In appointing such commissioners the mayor shall specify the borough or boroughs in wnich they are respectively to have administrative jurisdiction, to wit: one in the boroughs of Manhattan and Richmond; one in the borough of the Bronx, and one in the boroughs of Brooklyn and Queens. The principal office of the deparatment of parks shall in the borough of Manhattan. There shall be a branch office in the boroughs of Brooklyn and the Bronx and a branch office may be established in the borough of Queens or the borough of Richmond, in the discretion of the board. At any time when requested so to do by said board, the mayor may make a new specification of the borough or boroughs in which said commissioners are respectively to have administrative jurisdiction. The salary of each of said commissioners shall be $5,000 a year.

Title to parks, squares and public places.

Sec. 608. The title to each and all of the parks, parkways, squares and public places comprised within and belonging to the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or the corporation heretofore known as the city of Brooklyn, or the corporation heretofore known as Long Island City, or the county of Kings, or the county of Richmond, or which are owned by the county of Queens, and are comprised within that portion of said county which is included in the city of New York, as constituted by this act, or belonging to any of the subdivisions of said counties, is hereby vested in the city of New York, as hereby constituted.

Gifts of real and personal property.

Sec. 609. Real and personal property may be granted, devised, bequeathed or conveyed to the city of New York, as constituted by this act, for the purposes of the improvement or ornamentation of the parks, squares or public places in said city, or for the establishment or maintenance, within the limits of any such park, square or public place, of museums, zoological, botanical or other gardens, collections of natural history, observatories or works of art, upon such trusts and conditions as may be prescribed by the grantors or donors thereof, and be accepted by the department; and all property so devised, granted, bequeathed or conveyed, and the rents, issues, profits and income and increase thereof shall be subject to the management, direction and control of the commissioner for the borough or boroughs in which the same is situated or to which it appertains, and except such surplus animals and duplicate specimens as the park board may deem it judicious to dispose of by sale or otherwise, the same shall be forever properly protected, preserved and arranged for public use and enjoyment, subject to such rules and regulations as the park board may prescribe. The said board shall hereafter, with its annual report, make a statement of the condition of all the gifts, devises and bequests of the previous year, and of the names of the persons making the same.

General powers of the board; ordinances.

Sec. 610. The park board shall by a vote of a majority of its members have power to establish general rules and regulations for the administration of the department, which rules and regulations so far as practicable shall be uniform in all the boroughs. Said board shall have power to appoint a secretary, and, within the limit of its appropriation, to appoint such subordinate officers as may be necessary for the proper conduct of the office of the department. The board shall also have power by a vote of a majority of its members to enact ordinances for the government and protection of all parks, parkways, squares and public places within the city, and the same shall at all times be subject to all such ordinances as to the use and occupation thereof and in respect to any erections or incumbrances thereon. Any person violating any of such ordinances shall be guilty of a misdemeanor and shall on conviction before a city magistrate be punished by a fine not exceeding fifty dollars, or in default of payment of such fine by imprisonment not exceeding thirty days.

Landscape architect; appointment and duties.

Sec. 611. The board shall also appoint without definite term a landscape architect, skilled and expert, whose assent shall be requisite to all plans and works or changes thereof respecting the conformation, development or ornamentaion of any of the parks, squares, or public places of the city, to the end that the same may be uniform and symmetrical at all times. It shall be the duty of such architect, from time to time, to prepare and submit to the board, or to any commissioner, as he may deem proper, or as he may be requested by said board or by any commissioner, plans for works or changes thereof respecting the parks, parkways, squares or public places of the city. The salary of said architect shall be fixed by the board within the proper appropriation.

General powers of commissioners as to the management of the parks.

Sec. 612. Subject to such general rules and regulations as shall be established by the board, each commissioner shall have charge of the management and be responsible for the care of all such parks, parkways, squares and public places as are situated in the borough or boroughs over which he has jurisdiction, and of the streets and avenues immediately adjoining the same, but such jurisdiction shall not extend to nor include the buildings which are now or may hereafter be erected in such parks, squares or public places for governmental purposes, other than those of the department of parks. It shall be the duty of each commissioner, subject to such general rules and regulations and in conformity therewith to maintain the beauty and utility of all such parks, squares and public places as are situated within his jurisdiction, and to institute and execute all measures for the improvement thereof for ornamental purposes and for the beneficial uses of the people of the city. Subject to the general rules and regulations established by the board, each commissioner shall have power to determine the line or curb and the surface construction of all streets and avenues lying within a distance of three hundred and fifty feet from the outer boundaries of any park, square or public place in his jurisdiction, and he shall also have power to plant trees and to construct, erect and establish seats, drinking fountains, statues and works of art, when he may deem it tasteful or appropriate so to do, on any part of the public streets and avenues within such environment, subject to the provisions of title two of this chapter and to determine when and where new lamps or lighting appliances shall be placed and lighted.

Maintenance and management of buildings in parks.

Sec. 613. It shall be the duty of the commissioner for the boroughs of Manhattan

and Richmond to maintain the meteorological and astronomical observatory, the Museum of Natural History, the Metropolitan Museum of Art in Central park, the Aquarium in Battery place, and such other buildings as now are or may hereafter be erected in such parks or in any other park, square or public place under his jurisdiction by authority of the municipal assembly. It shall be the duty of the commissioner for the boroughs of Brooklyn and Queens to maintain the Brooklyn Institute of Arts and Sciences and such other buildings as now are or may hereafter be erected in any park, square or public place under his jurisdiction by authority of the municipal assembly. It shall be the duty of the commissioner for the borough of the Bronx to maintain the New York Botanical garden and the buildings appurtenant thereto, and such other institutions or buildings as may be established or erected in any park, square or public place in his jurisdiction by authority of the municipal assembly. It shall be the duty of the several commissioners to provide the necessary instruments, furniture and equipments for the several buildings and institutions within their respective jurisdictions, and, with the authority of the municipal assembly, to develop and improve the same, and te erect additional buildings; but the maintenance of all such buildings and institutions shall be subject to the provisions of the acts incorporating said institutions, or either of them, and the acts amendatory thereof, and to the powers of said corporations thereunder, and of the boards by such acts created or provided for; and shall also be subject to and in conformity with such contracts and agreements as have heretofore been made with such institutions respectively, and are in force and effect when this act takes effect, or as may be hereafter made by the authority of the municipal assembly, and no moneys shall be expended for such purposes unless an appropriation therefor has been made by the board of estimate and apportionment and the municipal assembly. Out of the moneys annually appropriated for the maintenance of parks each commissioner may apply such sum as shall be fixed by the board of estimate and apportionment for the keeping, preservation and exhibition of the collections placed or contained in buildings or institutions now situated or hereafter erected in the parks, squares or public places under the jurisdiction of such commissioner.

Appointment of subordinate officers.

Sec. 614. Each commissioner shall have power to appoint such superintendents, engineers, subordinates, clerks and assistants as may be necessary for the efficient performance of the duties of the department respecting the parks, squares and public places within his jurisdiction, and as may be authorized by the municipal assembly and provided for by the proper appropriation. He shall, subject to the approval of the board, fix the salaries of his appointees within the limits of such appropriation. Each commissioner shall also have power to employ all of the mechanics, agents or laborers needed or required for the work of the department in the parks, squares and public places in his jurisdiction within the limits of the proper appropriation, and to arrange and classify the various appointees and employes in such manner and under such titles or designations as the board may prescribe. Each commissioner shall have in immediate charge the control and disposition of such members of the police force of the city of New York, as constituted by this act, as may be assigned for duty in the parks, squares or public places subject to his jurisdiction.

Permits to buildings for fire apparatus.

Sec. 615. Each commissioner is hereby authorized in his discretion, on the application in writing of the fire commissioner, to permit a building or buildings for fire apparatus to be placed in any of the parks, squares or public places situated within the jurisdiction of such commissioner of parks, provided the same are so located and constructed as, in the judgment of the commissioner granting such permission, will not disfigure or encumber the same, or interfere with the purposes of public use and recreation, but will tend to the protection of the public and their property.

General powers of commissioners under former acts.

Sec. 616. The commissioner for the boroughs of Manhattan and Richmond shall in addition to the powers, rights and duties expressly conferred or imposed upon him by this act, possess and exercise all the powers, rights and duties and shall be subject to all the obligations heretofore vested in, conferred upon or required of the corporation known as the mayor, alderman and commonalty of the city of New York or the department of parks in said city, or the commissioners of parks, or in any other board, body or officer therein or thereof, or in any commission, commissioner, body, board or officer in or for the county of Richmond, so far as such powers, rights, duties and obligations concern or affect the control, care, management, government, extension, maintenance or administrative jurisdiction of the parks, squares and other public places situated or lying within the boroughs of Manhattan and Richmond or either of them at the time this act takes effect or which may thereafter be opened or established therein, so far as the same are not inconsistent with this act. The commissioner for the borough of the Bronx shall, in addition to the powers, rights and duties expressly conferred or imposed upon him by this act, possess and exercise all the aforesaid powers, rights, duties and shall be subject to all the aforesaid obligations so far as such powers, rights, duties and obligations concern or affect the care, management, control, government, extension, maintenance or administrative jurisdiction of the parks, squares and other public places situated or lying within the borough of the Bronx at the time this act takes effect, or which may thereafter be opened or established therein, so far as the same are not inconsistent with this act. The commissioner for the boroughs of Brooklyn and Queens shall in addition to the powers, rights and duties expressly conferred or imposed upon him by this act, possess and exercise all the powers, rights and duties and shall be subject to all the obligations heretofore vested in or conferred upon, or required of the corporation known as the city of Brooklyn, or the department of parks in and for said city, or the commissioners of parks, or any commission, commissioner, body, board or officer of said city or of the county of Kings, or in any commissioner, body, board or officer in or for that portion of the county of Queens which is included in the city of New York, as constituted by this act, so far as such powers, rights, duties and obligations concern or affect the control, care, management, government, extension, maintenance or administrative jurisdiction of the parks, squares and other public places situated or lying within the boroughs of Brooklyn and Queens, or either of them, at the time this act takes effect, or which may be thereafter opened or established therein, so far as the same are not inconsistent with this act.

Accounts; annual estimates; expenditures.

Sec. 617. Each commissioner shall keep accurate and detailed accounts, in a form approved by the commissioners of accounts, of all moneys received and expended by him, the sources from which they are received and the purposes for which they are expended, and shall prepare itemized monthly statements of all receipts and expenditures in duplicate, one of which statements, together with all vouchers, shall be filed with the controller, and one of which shall be filed in his own office. Each commissioner shall, on or before the first day of September in each year prepare an itemized estimate of his necessary expenses for the ensuing fiscal year and present the same to the board. The three estimates so prepared as revised by the board shall together constitute the annual estimate of the department of parks, and shall be submitted to the board of estimate and apportionment within the time prescribed by this act for the submission of estimates for the several departments of the city. No commissioner shall incur any expense for any purpose in excess of the amount appropriated therefor; nor shall he expend any money so appropriated for any purpose other than that for which it was appropriated. The commissioner for the boroughs of Manhattan and Richmond shall annually include in his estimate of the amount necessary for the maintenance of the parks, the sums now authorized by law for the maintenance of the American Museum of Natural History and the Metropolitan Museum of Art, not exceeding, however, ninety-five thousand dollars per annum for each of the said museums. It shall be the duty of the board of estimate and apportionment and of the municipal assembly to provide in the annual budget the proportionate part of the appropriation for the department of parks applicable to the administration of the department in each borough of the city, borough by borough.

Advertisements for supplies.

Sec. 618. The board shall from time to time as may be necessary, advertise in the City Record and the corporation newspapers for not less than ten days, for proposals for such articles and supplies as shall be necessary to be used in the parks, squares and public places of the city, and shall award contracts for the same to the lowest bidders who shall give adequate security for the faithful performance of such contracts, excepting such perishable articles as may be excepted by the rules and regulations of the board. In case of an emergency each commissioner may purchase articles immediately required without calling for competition at an expense not exceeding one thousand dollars during any one month.

Battery place; boat landings.

Sec. 619. The commissioner for the boroughs of Manhattan and Richmond shall have power and control over all that portion of Battery place lying south of the line of the south side of pier No. 1, North river, and west of the easterly line of West street, extended in a southerly direction, and also over the waters of the North river and soil under the waters thereof, in front of said portion of Battery place, and to the extent of two hundred feet westerly from the westerly end of said Battery place; and it shall be lawful for such commissioner to erect, construct and maintain on said part of Battery place, and over or on the lands under water before mentioned, suitable buildings, docks, piers, or

basins for the accommodation of small boats that may be engaged in the business of attending on shipping lying in the said river, or the bay or harbor of New York, and also to make, prescribe and enforce, from time to time, such rules and regulations, for the use and enjoyment of the same, as to the commissioner shall seem meet and proper for the public interest. Such commissioner may also prescribe and enforce like rules and ordinances for the control and government of all small boats frequenting or using the water basin at the south end of the Battery.

Harlem river improvement.

Sec. 620. It shall be the duty of the commissioner for the boroughs of Manhattan and Richmond to continue and complete every and all plan or plans, work or construction, respecting the improvement of Harlem river, heretofore devolved upon the department of public parks of the corporation known as the mayor, aldermen and commonalty of the City of New York, by chapter five hundred and thirty-four of the laws of eighteen hundred and seventy-one, and by all acts or parts of acts amendatory thereof, so far as the same remain to be continued and completed according to the provisions of that act or its amendments.

Metropolitan museum of art.

Sec. 621. The commissioner for the boroughs of Manhattan and Richmond is hereby authorized and directed to continue the contract with the Metropolitan Museum of Art for the occupation by it of the buildings erected or to be erected on that portion of the Central park east of the old receiving reservoir, and bounded on the west by the drive, on the east by the Fifth avenue, on the south by a continuation of Eightieth street, and on the north by a continuation of Eighty-fifth street, and for transferring thereto, and establishing, and maintaining therein its museum, library, and collections, and carrying out the objects and purposes of the said Museum of Art.

American museum of natural history.

Sec. 622. The commissioner for the boroughs of Manhattan and Richmond is hereby authorized and directed to continue the contract with the American Museum of Natural History for the occupation by it of the building erected, or to be erected, on that portion of the Central park formerly known as Manhattan square, and for establishing and maintaining therein its museum, library and collections, and carrying out the objects and purposes of said museum.

New York public library.

Sec. 623. Whenever pursuant to lawful authority, the land at present occupied by the reservoir at Fifth avenue and Fortieth and Forty-second streets shall be made a public park, and the removal of said reservoir shall have been duly authorized and directed, the commissioner for the boroughs of Manhattan and Richmond is hereby authorized and directed to make and enter into a contract with the New York public library, Astor, Lenox and Tilden foundations, a corporation duly organized under the laws of this state, for the use and occupation of said land, or of any part thereof, by the said corporation and its successors, for establishing and maintaining thereon a free public library and reading room, and for carrying out the objects and purposes of said corporation in accordance with the provisons of the agreement of consolidation between the trustees of the Astor library, of the Lenox library and of the Tilden trust, and the several acts incorporating the said several corporations; and said contract may provide that such use and occupation shall continue so long as the said the New York public library, Astor, Lenox and Tilden foundations, or its successors, shall maintain such free library and reading room upon said land.

Brooklyn institute of arts and sciences.

Sec. 624. The commissioner for the boroughs of Brooklyn and Queens is hereby authorized and directed to continue the contract and lease with the Brooklyn Institute of Arts and Sciences, for the occupation by it of park lands and of a building or buildings erected or to be erected on that portion of Prospect park bounded by the Eastern parkway on the north, Washington avenue on the east, a line parallel to Old President street, and one hundred feet south of the southerly line of said street, on the south, and on the west by the easterly line of land reserved for the Prospect hill reservoir, and in continuation thereof, for establishing and maintaining thereon its museum, library and collections, and for carrying out the plans and purposes of said institute and for the maintenance of said museum building or buildings, and for the keeping, preservation and exhibition of collections placed therein, a sum not less than twenty thousand dollars shall be appropriated annually by the said city of New York, as constituted by this act.

New York botanical garden.

Sec. 625. The commissioner for the borough of the Bronx is hereby authorized and directed to carry out the existing contract made by and between the department of parks of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York and the board of managers of the corporation known as the New York botanical garden pursuant to the provisions of chapter two hundred and eighty-five of the laws of eighteen hundred and ninety-one, entitled "An act to provide for the establishment of a botanic garden and museum and arboretum in Bronx park in the city of New York and to incorporate the New York botanical garden for carrying on the same," as amended by chapter 103 of the laws of 1894, which contract provides for the allotting and setting apart for the uses of said garden of two hundred and fifty acres of land or less in the northern part of Bronx park as shown upon a certain map thereof numbered five hundred and sixty-eight, and signed by Messrs. Vaux and Parsons, and filed with the former department of public parks of the corporation known as the mayor, aldermen and commonalty of the city of New York.

New York zoological garden.

Sec. 626. The commissioner for the borough of the Bronx is hereby authorized and directed to carry out the contract made by and between the department of public parks and the sinking fund commissioners of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, with the board of managers of the corporation known as the New York Zoological society, pursuant to the provisions of chapter four hundred and thirty five of the laws of eighteen hundred and ninety-five, entitled "An act to incorporate the New York Zoological society and to provide for the establishment of a zoological garden in the city of New York" if such a contract shall have been entered into prior to the passage of this act. If no such contract shall have been entered into by the said department of parks and the said sinking fund commissioners prior to the passage of this act, then and in that case the said commissioner for the borough of the Bronx with the consent and approval of the sinking fund commissioners of the city of New York, as constituted by this act, is hereby authorized to enter into a contract in behalf of the city of New York with said New York Zoological society allotting and setting apart for the use of said society a tract of land in Bronx park in said borough of the Bronx upon such terms and conditions as shall be approved by the said commissioner and said sinking fund commissioners.

Military encampments and evolutions; public fairs.

Sec. 627. No military encampment, parade, drill, review or other military evolution or exercise, shall be held or performed in any park, or any part thereof; nor shall any military company, regiment or other military body enter or move in military order within any park without permit from the commissioner within whose jurisdiction such park is situated. No military officer shall have authority to order, direct, or hold any such parade, drill, review, or other evolutions or exercise or encampment within said park, except in case of riot, insurrection, rebellion or war, without such permit. It shall not be lawful to grant, use or occupy, for the purposes of a public fair or exhibition, any portion of any park, square or public place.

TITLE 2.

ART COMMISSION.

Art commission; how constituted.

Sec. 633. There shall be an art commission for the city of New York composed as follows:

The mayor of the city of New York, ex-officio.

2. The president of the Metropolitan Museum of art, ex-officio.

3. The president of the New York Public library—(Astor, Lenox and Tilden foundations), ex-officio.

4. The president of the Brooklyn Institute of Arts and Sciences, ex-officio.

One painter, one sculptor and one architect, all residents of the city of New York; and three other residents of said city, none of whom shall be a painter, sculptor or architect or member of any other profession in the fine arts. All of the six last mentioned shall be appointed by the mayor from a list of not less than three times the number to be appointed proposed by the Fine Arts federation of New York.

In all matters of which such commission takes cognizance pertaining to work under the special charge of a commissioner or department, the commissioner having such special charge shall act as a member of the commission.

Members of commission; how chosen; vacancies, etc.

Sec. 634. The painter, sculptor and architect, members of the commission, shall choose by lot one, two and three year terms of office; the three other appointed members of the commission shall also choose by lot one, two and three year terms of office, and the appointment of their successors, after the expiration of the first year of this commission, shall be for a term of three years. All appointments to fill vacancies shall be for the unexpired term.

In case any vacancy shall occur in the commission, by reason of death, resignation, incapacity, refusal to serve, or otherwise, the vacancy shall be filled by appointment, as

provided in section 633 of this act. In case the Fine Arts federation shall fail to present a list of nominees as aforesaid within three months from the time when any appointment is to be made, the mayor shall appoint without such nomination.

Officers.

Sec. 635. The commission shall serve without compensation as such, and shall elect a president, vice president and secretary from its own members, whose terms of office shall be for one year and until their successors are elected and have qualified. The commission shall have power to adopt its own rules of procedure. Five commissioners shall constitute a quorum.

Offices to be provided; expenses, how met.

Sec. 636. Suitable offices shall be provided for the commission by the board of estimate and apportionment. The expenses of the commission shall be paid by the city; the amount of the same shall be fixed annually by the board of estimate and apportionment and the municipal assembly.

All works of art to be submitted to and approved by the commission.

Sec. 637. Hereafter no work of art shall become the property of the city of New York by purchase, gift or otherwise, unless such work of art or design of the same, together with a statement of the proposed location of such work of art, shall first have been submitted to and approved by the commission; nor shall such work of art, until so approved, be erected or placed in or upon, or allowed to extend over or upon any street, avenue, square, common, park, municipal building or other public place belonging to the city. The commission may, when they deem proper, also require a complete model of the proposed work of art to be submitted. The term "work of art" as used in this title shall apply to and include all paintings, mural decorations, stained glass, statues, bas-reliefs or other sculptures, monuments, fountains, arches or other structures of a permanent character, intended for ornament or commemoration. No existing work of art in the possession of the city shall be removed, relocated or altered in any way without the similar approval of the commission, except as provided in section 639 of this act. When so requested by the mayor or the municipal assembly the commission shall act in a similar capacity, with similar powers, in respect of the designs of munipal buildings, bridges, approaches, gates, fences, lamps or other structures erected or to be erected upon land belonging to the city, and in respect of the lines, grades and plotting of public ways and grounds, and in respect of arches, bridges, structures and approaches which are the property of any corporation or private individual and which shall extend over or upon any street, avenue, highway, park or public place belonging to the city. But this section shall not be construed as intended to impair the power of the park board to refuse its consent to the erection or acceptance of public monuments or memorials or other works of art of any sort within any park, square or public place in the city.

Time for decision limited.

Sec. 638. If the commission shall fail to decide upon any matter submitted to it within sixty days after such submission, its decision shall be deemed unecessary.

Removal or relocation of works of art; duty of commission.

Sec. 639. In case of the immediate removal or re-location of any existing work of art shall be deemed necessary by the mayor, the commission shall within forty-eight hours after notice from him approve or disapprove of such removal or re-location, and in case of their failure so to act within forty-eight hours after the receipt of such notice, they shall be deemed to have approved of the same.

CHAPTER XII.

DEPARTMENT OF BUILDINGS.

Appointment of commissioners; qualifications; jurisdiction; salaries.

Sec. 644. The head of the department of buildings shall be called the board of buildings. Said board shall consist of three members to be known as commissioners of buildings. They shall be appointed by the mayor and shall hold their respective offices as provided in chapter IV of this act. Each of said commissioners shall be a competent architect or builder of at least ten years' experience. One of said commissioners shall be the president of the board, and shall be so designated by the mayor. In appointing such commissioners the mayor shall specify the borough or boroughs in which they are respectively to have administrative jurisdiction, to wit: One in the boroughs of Manhattan and the Bronx; one in the borough of Brooklyn, and one in the boroughs of Queens and Richmond. The principal office of the department of buildings shall be in the borough of Manhattan. There shall be a branch office in the borough of Brooklyn and a branch office may be established in any of the other boroughs, in the discretion of the board. The salary of the commissioner of buildings for the boroughs of Manhattan and the Bronx, and the salary of the commissioner of buildings for the borough of Brooklyn, shall n each case be $7,000 a year. The salary of the commissioner of buildings for the boroughs of Queens and Richmond shall be $3,500 a year.

Rules and regulations.

Sec. 645. The board shall have the power, by a vote of a majority of its members, to establish general rules and regulations for the administration of the department, and such other rules and regulations as were authorized by law at the time of the passage of this act to be established by the superintendent of buildings in the city of New York, or by the commissioner of the department of buildings in the city of Brooklyn, as said cities were formerly constituted. Such rules and regulations shall, so far as practicable, be uniform in all the boroughs, but the board shall have power, from time to time, to amend or repeal such rules and regulations when in the opinion of a majority of the commissioners it shall seem necessary or desirable. The board shall also have power to appoint a secretary, and within the limits of its appropriation to appoint such subordinate officers as may be necessary for the proper conduct of the office of the department.

General powers of commissioners under existing laws.

Sec. 646. The commissioner for the boroughs of Manhattan and the Bronx shall within such boroughs in addition to the powers, rights and duties expressly conferred or imposed upon him by this act possess and exercise all the powers, rights and duties and shall be subject to all the obligations heretofore vested in, conferred upon or required of the department of buildings or the superintendent of buildings in the city of New York as heretofore constituted, except in so far as the same are inconsistent with or are modified by this act. The commissioner for the borough of Brooklyn shall within such borough in addition to the powers, rights and duties expressly conferred or imposed upon him by this act possess and exercise all the powers, rights and duties, and shall be subject to all the obligations heretofore vested in, conferred upon or required of the department of buildings or the commissioner of the department of buildings in the city of Brooklyn as heretofore constituted, except in so far as the same are inconsistent with or are modified by this act. The commissioner for the boroughs of Queens and Richmond shall within such boroughs respectively in addition to the powers, rights and duties expressly conferred or imposed upon him by this act possess and exercise all the powers, rights and duties and shall be subject to all the obligations heretofore vested in, conferred upon or required of any department, commission, board or officer of Long Island City as heretofore constituted, or of any town or village as heretofore constituted which is comprised within that portion of the county of Queens included in the city of New York as constituted by this act, or which is vested in, conferred upon or required of any department, commission, board or officer of any town or village in the county of Richmond as heretofore constituted, so far as such powers, rights, duties and obligations concern, affect or relate to the construction, alteration or removal of any building or structure erected or to be erected within said boroughs or either of them, except in so far as the same are inconsistent with or are modified by this act.

Continuation and repeal of existing laws; building code.

Sec. 647. The several acts in effect at the time of the passage of this act concerning, affecting or relating to the construction, alteration or removal of buildings or other structures in any of the municipal and public corporations included within the city of New York, as constituted by this act, are hereby continued in full force and effect in such municipal and public corporations respectively, except in so far as the same are inconsistent with or are modified by this act, provided, however, that the municipal assembly shall have power to establish, and from time to time to amend a code of ordinances, to be known as the Building Code, providing for all matters concerning, affecting or relating to the construction, alteration or removal of buildings or structures erected or to be erected in the city of New York, as constituted by this act, and for the purpose of preparing such code to appoint and employ a commission of experts; and provided further that upon the establishment of such code the several acts first above mentioned shall cease to have any force or effect, and are hereby repealed, but such repeal shall not take effect until such building code shall be established by the municipal assembly as herein provided.

The provisions of such building code shall be in conformity with and be subject to all general laws of the state concerning, affecting or relating to buildings or classes of buildings, or other structures.

Duties of commissioners; appointment and removal of subordinates.

Sec. 648. Each commissioner shall, within the borough or boroughs in which he is appointed to exercise administrative jurisdiction, have charge of the administration of, and it shall be his duty, subject to and in accordance with the general rules and regulations established by the board, to enforce such rules and regulations and the provisions of this chapter and of such ordi-

nances as may be established by the municipal assembly and of the laws relating to the construction, alteration or removal of buildings or other structures erected or to be erected within such borough or boroughs. Each commissioner within the limits of his appropriation shall have power to appoint and at pleasure to remove subordinate officers, as follows: Such superintendents of buildings, and such inspectors of buildings, engineers, clerks, messengers, assistants and other subordinates as in his judgment may be necessary and proper to carry out and enforce such rules and regulations and ordinances and the provisions of said laws and of this chapter within the borough or boroughs under his jurisdiction. The superintendents of buildings shall each be a competent architect, engineer or builder of at least ten years' practice. The inspectors shall be competent men, either architects, engineers, masons, carpenters, plumbers or iron workers, who shall have served at least five years as such. It shall not be lawful for any officer or employe in the department to be engaged in conducting or carrying on business as an architect, civil engineer, carpenter, plumber, iron worker, mason or builder while holding office in the department. Each commissioner shall have power to designate in writing one of the superintendents of buildings or any of the inspectors so appointed by him to act on any survey authorized by law, or to perform such other duties as the said commissioner may direct. Each commissioner may designate a superintendent of buildings, who, during the absence or inability of such commissioner shall possess all the powers and perform all the duties of such commissioner. Any employe, for any neglect of duty, or omission to properly perform his duty, or violation of rules, or neglect or disobedience of orders, or incapacity, or absence without leave, may be punished by the commissioner appointing him by forfeiting and withholding pay for a specified time, or by suspension from duty with or without pay; but this provision shall not be deemed to abridge the right of said commissioner to remove or dismiss any inspector of buildings or other subordinate appointed by him or by any predecessor in office from the service of the department at any time in his discretion.

Decisions of commissioners; appeals.

Sec. 649. Each commissioner shall have power and it shall be his duty, subject to the provisions of law and the ordinances of the municipal assembly and the general rules and regulations established by the board, to pass upon any question relative to the mode, manner of construction or materials to be used in the erection or alteration of any building or other structure erected or to be erected within the borough or boroughs under his jurisdiction which is included within the provisions of this chapter or of any existing law applicable to such borough or boroughs relating to the construction, alteration or removal of buildings or other structures, and to require that such mode, manner of construction, or materials shall conform to the true intent and meaning of the several provisions of this chapter and of the laws and ordinances aforesaid and the rules and regulations established by the board. Whenever a commissioner to whom such question has been submitted shall reject or refuse to approve the mode, manner of construction or materials proposed to be followed or used in the erection or alteration of any such building or structure, or when it is claimed that the rules and regulations of the board or the provisions of law or of said ordinances do not apply or that an equally good and more desirable form of construction can be employed in any specific case, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of such commissioner to the board in any case where the amount involved by such decision shall exceed the sum of one thousand dollars; provided, however, that in the boroughs of Manhattan and the Bronx such appeal shall be taken to the board of examiners, established by chapter four hundred and fifty-six of the laws of eighteen hundred and eighty-five and the several acts amendatory thereof or supplemental thereto. The commissioner for the boroughs of Manhattan and the Bronx shall be ex-officio a member and the chairman of said board of examiners. The other members of said board of examiners shall be the persons mentioned and described in section thirty-one of said chapter four hundred and fifty-six of the laws of eighteen hundred and eighty-five. The appeal authorized by this section may be taken within ten days from the entry of a decision upon the records of the commissioner by filing with the commissioner rendering such decision and with the secretary of the board established by this act or with the clerk of the board of examiners, as the case may be, a notice of appeal stating specifically the questions which the appellant desires to have passed upon by the board of buildings or by the board of examiners, as the case may be, and by filing with the secretary of the board of buildings or the clerk of the board of examiners, as the case may be, copies of all papers required by law or by the rules and regulations of the board of buildings to be submitted to the commissioner upon an application for a building permit, and the board of buildings or the board of examiners, as the case may be, shall thereafter fix a day within a reasonable time for the hearing of such appeal, and upon such hearing the appellant may be represented either in person or by his agent or attorney. The decision of the board of buildings or the board of examiners, as the case may be, upon such appeal, shall be rendered without unnecessary delay and such decision shall be final.

Power to vary the provisions of law.

Sec. 650. Each commissioner shall have power, with the approval of the board, to vary or modify any rule or regulation of the board or the provisions of this chapter or of any existing law or ordinance relating to the construction, alteration or removal of any building or structure erected or to be erected within his jurisdiction upon an application to him therefor in writing by the owner of such building or structure or his duly authorized agent, where there are practical difficulties in the way of carrying out the strict letter of the law, so that the spirit of the law shall be observed and public safety secured and substantial justice done; but no such variation or modification shall be granted or allowed except by a vote of a majority of the board. Where such application has been filed with a commissioner the owner of such building or structure or his duly authorized agent shall have the right to present a petition to such commissioner and the board, setting forth the grounds for the desired variation or modification, and may appear before said board and be heard. The board shall fix a date within a reasonable time for a hearing upon such application and shall as soon as practicable render a decision thereon, which decision shall be final. The particulars of each such application and of the decision of the board thereon shall be entered upon the records of the board, and if the application is granted a certificate therefor shall be issued by the commissioner to whom the application is made and shall be countersigned by the secretary of the board.

Accounts; annual estimates; expenditures.

Sec. 651. Each commissioner shall keep accurate and detailed accounts, in a form to be approved by the commissioners of accounts, of all moneys received and expended by him, the sources from which they are received and the purposes for which they are expended, and shall prepare itemized monthly statements of all receipts and expenditures in duplicate, one of which statements, together with all vouchers, shall be filed with the controller, and one of which shall be filed in his own office. Each commissioner shall, on or about the first day of September in each year prepare an itemized estimate of his necessary expenses for the ensuing fiscal year and present the same to the board. The three estimates so prepared as revised by the board shall together constitute the annnal estimate of the department of buildings, and shall be submitted to the board of estimate and apportionment within the time prescribed by this act for the submission of estimates for the several departments of the city. No commissioner shall incur any expense for any purpose in excess of the amount appropriated therefor; nor shall he expend any money so appropriated for any purpose other than that for which it was appropriated.

Record of applications.

Sec. 652. Each commissioner shall keep a record of all applications presented to him concerning, affecting or relating to the construction, alteration or removal of buildings or other structures. Such record shall include the date of the filing of each such application; the name and address of the applicant; the name and address of the owner of the land on which the structure mentioned in such application is situated; the names and addresses of the architect and builder employed thereon; a designation of the premises by street number, or otherwise sufficient to identify the same; a statement of the nature and proposed use of such structure; and a brief statement of the nature of the application, together with a memorandum of the decision of the commissioner upon such application and the date of the rendition of such decision. The books containing such records are hereby declared to be public records, and shall be open to inspection at all reasonable times.

CHAPTER XIII.

DEPARTMENT OF PUBLIC CHARITIES.

Jurisdiction; salary.

Sec. 658. The head of the department of public charities shall be called the board of public charities. Said board shall consist of three commissioners, who shall be designated commissioners of public charities of the city of New York. They shall be appointed by the mayor and hold their respective offices, as provided in chapter IV of this act. One of said commissioners shall be the president of said board, and shall be so designated by the mayor. In appointing such commissioners the mayor shall specify the borough or boroughs in which they are respectively to have administrative jurisdiction, to wit: One in the boroughs of Manhattan and the Bronx; one in the boroughs of Brooklyn and Queens; one in the borough of Richmond. The salary of the commissioner for the boroughs of Manhattan and the Bronx, and of the commissioner for the boroughs of Brooklyn and

Queens shall in each case be seven thousand five hundred dollars a year. The salary of the commissioner for the borough of Richmond shall be two thousand five hundred dollars a year. The principal office of the department shall be in the borough of Manhattan. There shall be a branch office in each of the other boroughs.

Rules and regulations; subordinate officers.

Sec. 659. The said board shall by a vote of a majority of its members have power to establish general rules and regulations for the administration of the department and the government of the institutions under the jurisdiction of said several commissioners, except the institutions specified in section 661 of this act, and such general rules and regulations shall be so far as practicable uniform in all the boroughs. Subject to such general rules and regulations each commissioner shall have jurisdiction over the several classes of public institutions hereinafter specified which are situated or may hereafter be established within the borough or boroughs for which he is appointed. The commissioner for the boroughs of Manhattan and the Bronx, and the commissioner of the boroughs of Brooklyn and Queens, shall each have power to appoint and at pleasure to remove a deputy. Each deputy so appointed shall during the absence or disability of the commissioner appointing him possess all the powers and perform all the duties of such commissioner, except the powers conferred by sections 661 and 664 of this act. Whenever such absence or disability shall continue for five days, or in the judgment of the mayor it is necessary, either of the other commissioners may be designated by him to exercise such powers. The board of estimate and apportionment and the municipal assembly may from time to time provide for additional deputies in the last named boroughs and also for a deputy in the borough of Richmond. Any deputy to serve in the borough of Richmond shall be appointed by the commissioner having administrative jurisdiction therein, and shall be subject to removal at his pleasure. Each of the commissioners, within the limits of his appropriation, shall have power to appoint and at pleasure to remove such subordinate officers and assistants as may be necessary for the efficient performance of his duties as such commissioner. The board shall have power to appoint a secretary, and, within the limit of its appropriation, to appoint such subordinate officers as may be necessary for the proper conduct of the office of the department.

Public institutions under the jurisdiction of the commissioners.

Sec. 660. Each commissioner shall have jurisdiction over and it shall be his duty to take charge of and to establish and enforce rules and regulations, not inconsistent with the general rules and regulations established by the board, for the government of the following described classes of public institutions situated within the borough or boroughs for which he is appointed, viz.: all hospitals, asylums, almshouses and other institutions belonging to or hereafter acquired or established by the city of New York, which are or shall be devoted to the care of the feeble minded, the sick, the infirm and the destitute; except hospital wards attached to penitentiaries and to other prisons and institutions under the jurisdiction of the department of correction; and except such hospitals as are or may hereafter be established and conducted by the department of health, pursuant to law; and except the house of refuge for juvenile delinquents and the house of detention for witnesses; and except the island known as Ward's island and the buildings and improvements thereon, and the equipment, fixtures and furniture of the asylums for the insane on said island during the continuance of the lease thereof heretofore made by the city of New York to the state of New York. Such buildings and grounds on Blackwell's island as are now used for the care of the insane pursuant to the provisions of chapter two of the laws of eighteen hundred and ninety-six shall, when the insane shall have been removed therefrom, be under the jurisdiction of the commissioner of public charities for the boroughs of Manhattan and the Bronx; and the buildings and grounds, together with the equipments, fixtures and furniture of the buildings now leased to the state by the county of Kings for the care of the insane, shall, when said lease expires, be under the jurisdiction of the commissioner of public charities for the boroughs of Brooklyn and Queens.

Payments to private institutions.

Sec. 661. No payment shall be made by the city of New York to any charitable, eleemosynary or reformatory institution wholly or partly under private control, for the care, support, secular education, or maintenance of any child surrendered to such institution, or committed to, received or retained therein, in accordance with sections 664, 665, 666 and 667 of this act, except upon the certificate of the commissioner having administrative jurisdiction that such child has been received and is retained by such institution pursuant to the rules and regulations established by the state board of charities. Moneys paid by the city of New York to any such institution for the care, support, secular education or maintenance of its inmates shall not be expended for any other purpose. Whenever the commissioner shall decide, after reasonable notice to the institution and a hearing, that any such child as aforesaid who is received and retained in such institution is not a proper charge against the public, and notice of such decision in writing is given by him to such institution, thereupon all right on the part of said institution to receive compensation from the city for the further retention of the child shall cease. He shall file in the office of the department in the borough within which the institution is situated, a statement of the reasons for his decision and of the facts upon which it is founded, and shall furnish a copy to the institution where the child is detained. His decision may be reviewed on certiorari by the supreme court.

Powers of commissioners as to destitute and other persons.

Sec. 662. The commissioner for the boroughs of Manhattan and the Bronx shall within said boroughs have all the authority concerning the care, custody and disposition of insane, feeble-minded, sick, infirm and destitute persons which the commissioners of public charities of the corporation known as the mayor, aldermen and commonalty of the city of New York had at the time of the taking effect of this act, and shall be subject to the same obligations and discharge the same duties in respect to such persons, except in so far as the same are inconsistent with or are modified by this act. The commissioner for the boroughs of Brooklyn and Queens shall within said boroughs have all the authority concerning the care, custody and disposition of such persons which the board of charities and correction of the city of Brooklyn and county of Kings as formerly constituted, or the superintendent of the overseers of the poor of the county of Queens, had at the time of the passage of this act and shall be subject to the same obligations and discharge the same duties in respect to such persons, except in so far as the same are inconsistent with or are modified by this act. The commissioner for the borough of Richmond shall within said borough have all the authority concerning the care, custody and disposition of such persons which the superintendent and overseers of the poor of the county of Richmond had at the time of the passage of this act, and shall be subject to the same obligations and discharge the same duties in respect to such persons, except in so far as the same are inconsistent with or are modified by this act. The said several commissioners shall be the overseers of the poor of the city of New York, as constituted by this act. No commissioner shall have power to dispense any form of outdoor relief except as provided in this chapter, but each commissioner shall have power to pay for the cost of the removal or transportation of any person who may come under his charge whenever in his judgment the city will thereby be relieved from an unnecessary or improper charge.

Each commissioner in his borough or boroughs shall make provision for the temporary care of vagrant and indigent persons, and shall provide for an investigation into the circumstances of all such persons, and shall cause every person who is found upon investigation to be a vagrant, to be brought before a magistrate pursuant to law. The board of estimate and apportionment and the municipal assembly shall in each year appropriate such sum as in their judgment may be necessary to carry out the provisions of this section.

Classification and instruction of inmates.

Sec. 663. It shall be the duty of each commissioner to cause all the inmates of public institutions under his charge to be classified so far as practicable. Destitute children shall be kept apart from criminal children, so that youthful and less hardened inmates shall not be rendered more depraved by association with and the evil example of older and more hardened inmates. Each commissioner may establish and maintain in the public institutions under his charge such schools or classes for the instruction and training of inmates as may be authorized by the board of estimate and apportionment and the municipal assembly.

Powers of commissioners as to destitute and other children.

Sec. 664. Each commissioner shall have power to commit, to indenture, place out, discharge or transfer any child who may be in his custody whenever in his judgment it shall be for the best interests of such child so to do, and he and his successors in office shall have power to revoke and cancel any such indenture or agreement and to make contracts for the maintenance of any such child in accordance with the general rules and regulations of the board; but in indenturing, placing out, transferring or committing any such child such commissioner shall, when practicable, indenture or place out such child with an individual of the like religious faith as the parents of such child, or transfer or commit such child to an institution governed by persons of the same religious faith. In respect to such minors so committed to or otherwise placed under his charge each commissioner shall in his borough or boroughs have such additional powers as are at the time of the taking effect of this act vested by law in the corresponding officers of the corporation known as the mayor, aldermen and commonalty of the city of New York, of the corporation known as the city of Brooklyn, and of the counties of Kings, Richmond and

Queens, mentioned in section of 662 of this act.

Notice of commitment of children.

Sec. 665. Whenever any child actually or apparently under the age of sixteen years is brought before any court or magistrate in the city of New York, as constituted by this act, pursuant to section eight hundred and eighty-eight of the code of criminal procedure, or is found destitute of means of support, the magistrate presiding or before whom such child is brought shall thereupon fix a day not more than three days distant for the hearing and final disposition of the charge against such child, and shall, at the same time, in addition to such other notices as may be required by law, give notice, in writing, of such arrest to the commissioner of public charities of the borough in which said arrest is made, and to the Society for the Prevention of Cruelty to Children, if there shall be one incorporated in the borough, which notice shall state the name of the child, its age, either actual or apparent, its sex, color, birthplace, residence, father's name, mother's name, parents' religion and parents' occupation, each, if known; the specific charge upon which the arrest is made, the name of the officer making the arrest and the name and address of the complaining witness, if any there be. And such court or magistrate may temporarily commit such child to the custody and care of an institution to which said court or magistrate is authorized by law to make final commitment.

Children committed as public charges; investigation.

Sec. 666. It shall be the duty of the commissioner so notified to investigate forthwith the charge against such child. The commissioner may appear either by clerk or by counsel on all hearings in such proceeding, and shall on or before the final hearing therein file with the court or magistrate a statement in writing of such fact or facts as in the opinion of the commissioner render it proper or improper that such child should be supported as a public charge at the expense of the city; and such written statement of fact or facts when so filed shall be preserved with and form a part of the record of the proceedings instituted by the arrest of such child. Omission or failure to file such statement shall not be ground for delaying the final decision.

Term of commitment of children; discharge.

Sec. 667. The term of commitment of each child committed in the city of New York, as constituted by this act, under any of the provisions of sections 664, 665 and 666 of this act, shall be until such child shall attain the age of sixteen years, or until it shall be duly indentured or placed out as an apprentice by the institution to which it shall have been committed, or until it shall be given over in adoption by said institution to some suitable person, or until otherwise discharged. Each institution mentioned in section 661 of this act, shall file with the commissioner on or before July 1, 1898, a list of all the children therein referred to in sections 661, 664, 665 and 666 of this act, which list shall contain the names and residence of the parents and guardians of the children as far as known. Every three months thereafter each such institution shall file a similar list of all such children received, discharged or otherwise disposed of in the interval.

Saving clause as to certain existing laws.

Sec. 668. Nothing contained in the foregoing sections shall be construed to alter or affect any provision of chapter one hundred and seventy-two of the laws of eighteen hundred and sixty-five, or of chapter four hundred and thirty-nine of the laws of eighteen hundred and ninety-two, or of chapter three hundred and fifty-three of the laws of eighteen hundred and eighty-six.

Record of inmates of institutions.

Sec. 669. It shall be the duty of each commissioner to keep and preserve a proper record of all persons who shall come under his care or custody and of the disposition made of such persons, with full particulars as to the name, age, sex, color and nativity of each, and in case of minors the names and residence of parents and their religious faith so far as ascertained, and the religious faith and residence of the person or families with whom or of the persons in charge of the institution in which they are placed, together with copies of any instrument of indenture or agreement executed by such commissioner.

Temporary care in accident cases.

Sec. 670. Any person injured or taken sick on the streets or in any public place within said city, who may not be safely removed to his or her home, may be sent to and shall be received in any public hospital within said city, for temporary care and treatment, irrespective of his or her place of residence.

Temporary care of the insane.

Sec. 671. Each commissioner shall provide and maintain suitable rooms or wards for the reception, medical examination and temporary care of persons alleged to be insane.

Alteration and repair of buildings.

Sec. 672. Each commissioner, subject to the approval of the board, whenever the increase of inmates in or the proper care and government of the public institutions or establishments under his jurisdiction shall in his judgment render it necessary or expedient, shall have power to enlarge or alter the buildings occupied by such institutions or establishments or any of them; and shall also have power to make all needful repairs to buildings and property under his control, provided that an appropriation has been made therefor.

Potter's field.

Sec. 673. Each commissioner, except the commissioner of the boroughs of Manhattan and the Bronx, shall have charge of the potter's field or fields situated in the borough or boroughs for which he is appointed, and each and every commissioner shall, when the necessity therefor shall arise, have power to lay out a potter's field or other public burial place for the poor and strangers, within the borough or boroughs for which he is appointed, and from time to time to inclose and extend the same, to make inclosures therein and to build vaults therein, and to provide all necessary labor therefor and for interments therein.

Accounts; annual estimates; expenditures.

Sec. 674. Each commissioner shall keep accurate and detailed accounts, in a form approved by the controller, of all moneys received and expended by him, the sources from which they are received and the purposes for which they are expended, and shall prepare itemized monthly statements of all receipts and expenditures in duplicate, one of which statements, together with all vouchers, shall be filed with the controller, and one of which shall be filed in his own office. Each commissioner shall, on or before the first day of September in each year prepare an itemized estimate of his necessary expenses for the ensuing fiscal year and present the same to the board. The three estimates so prepared as revised by the board shall together constitute the annual estimate of the department of public charities, and shall be submitted to the board of estimate and apportionment within the time prescribed by this act for the submission of estimates for the several departments of the city. No commissioner shall incur any expense for any purpose in excess of the amount appropriated therefor; nor shall he expend any money so appropriated for any purpose other than that for which it was appropriated.

Advertisements for supplies.

Sec. 675. The board shall from time to time as may be necessary advertise in the City Record and the corporation newspapers for not less than ten days for proposals for such articles and supplies as shall be necessary to be used in and for the relief and support of the poor of the city and shall award contracts for the same to the lowest bidders who shall give adequate security for the faithful performance of such contracts, excepting such perishable articles as may be excepted by the rules and regulations of the board. In case of an emergency each commissioner may purchase articles immediately required without calling for competition at an expense not exceeding one thousand dollars during any one month.

Expenditures for the relief of the blind.

Sec. 676. The commissioners are hereby authorized and empowered to insert in their annual estimate of expenditures an item of expenditure for the relief of the poor adult blind not to exceed in all $75,000. Under such rules and restrictions as the board may deem necessary, each commissioner shall distribute the sum so appropriated each year and assigned for use in his jurisdiction, in uniform sums not to exceed $100 to any one person, to such poor adult blind persons not inmates of any of the public or private institutions in the city of New York who shall be in need of relief and who shall be citizens of the United States and shall have been residents of said city continuosly for two years previous to the date of application for such relief.

Detail of inmates of correctional institutions to work in department.

Sec. 677. The commissioner of the boroughs of Manhattan and the Bronx may from time to time in his discretion request the department of correction to detail and designate inmates of the correctional institutions on Blackwell's island to perform necessary work, labor and services in and upon the grounds and buildings which are under the charge of the said commissioner on Blackwell's island or Randall's island; and such inmates of such correctional institutions when so employed shall at all times be under the personal oversight and direction of a keeper or keepers from such correctional institutions as the department of correction may deem necessary; but no inmate of any correctional institution shall be employed in any capacity whatever in any ward of any hospital while such ward is being used for hospital purposes; and in like manner the commissioners for the boroughs of Brooklyn and Queens, and for the borough of Richmond may request the department of corrections to make a like detail or designation when the persons so detailed or designated can be properly guarded and restrained.

Care of non-residents in Bellevue and Kings county hospitals.

Sec. 678. The commissioner of public charities for the boroughs of Manhattan and

the Bronx is hereby authorized in his discretion to permit the reception and treatment in Bellevue hospial of persons who do not reside in the city of New York, provided that every person so receiving treatment shall be required to pay such sum for board and attendance as may be fixed by such commissioner. And in like manner the commissioner for the boroughs of Brooklyn and Queens may permit the reception and treatment of such persons in the hospital now known as the Kings County hospital. Such commissioner shall collect and pay over all such moneys to the chamberlain once every month, and the amount so collected shall be paid into the general fund. Each commissioner shall upon making such payments to the chamberlain report the same to the controller of the city of New York.

Requisitions of subordinate officers.

Sec. 679. Each superintendent, warden or chief officer of every institution under the charge of any commissioner shall make his requisition in writing on such commissioner for all articles deemed necessary by the said officer to be used in the respective institutions under his charge, and shall keep an accurate account of the same.

Reports of subordinate officers.

Sec. 680. Each such superintendent, warden or other chief officer of every institution under the charge of any commissioner shall once in each week report in writing to such commissioner the number of persons who have been received or transferred, who are sick, who have died and who are remaining in the respective institutions under his charge, the discipline which has been maintained therein, the punishments imposed, and the quantity and kind of labor performed, and such other information as the commissioner may require.

Employment of inmates; articles manufactured; cultivation of lands.

Sec. 681. Every inmate of an almshouse whose age and health will permit, shall be employed in cultivating the grounds under the control of the commissioner of the borough in which such almshouse is situated or in manufacturing such articles as may be required for ordinary use in the public institutions under the control of such commissioner, or for the use of any department of the city of New York, or in preparing and building sea walls upon islands or other places belonging to the city, or at such mechanical or other labor as shall be found from experience to suit the capacity of the individual. The articles raised or manufactured by such labor shall be subject to the order of and shall be placed under the control of the commissioner having jurisdiction, and all such articles shall be utilized in the public institutions under the charge of the department of charities or in some other department of the city. All the lands under the jurisdiction of any commissioner, not otherwise occupied or utilized and which are capable of cultivation shall in the discretion of such commissioner be used for agricultural purposes.

Hours of labor; discipline.

Sec. 682. The hours of labor required of any pauper or other person committed to or placed under the charge of a commissioner of public charities shall be fixed by the board and shall not exceed eight hours per day for each such person. In case any such pauper shall neglect or refuse to perform the work allotted to him or her by the person in charge, or shall violate the rules and regulations of the institution, it shall be the duty of the superintendent of the almshouse to report such insubordination or violation to the commissioner having jurisdiction, who may thereupon direct the punishment of such pauper by solitary confinement and by being fed on bread and water only for such length of time as he may consider necessary; and in case any pauper shall neglect to perform the work assigned to him or her, or be guilty of any such violation on three or more separate occosions, the said commissioner may cause such pauper to be brought before the proper court or magistrate, and such court or magistrate may commit such pauper to the workhouse or penitentiary as a disorderly person.

Support of poor persons by relatives.

Sec. 683. The father, mother, children and grandchildren of sufficient ability, of a poor person who is insane, blind, old, lame, impotent or decrept so as to be unable by work to maintain himself must at their own charge relieve and maintain him in a manner to be approved by the commissioner within whose jurisdiction such person resides. If the relative of a poor person fails to maintain and relieve him as in this section provided, the said commissioner may apply to any city magistrate for the order authorized by law in such cases. The action authorized by law for a failure to comply with the order of the court requiring the payment of a weekly sum for such support must be in the name of the commissioner of public charities within whose jurisdiction such poor person resides.

Conduct of bastardy proceedings.

Sec. 684. All bastardy proceedings shall be conducted by and in the name of the commissioner within whose jurisdiction the person charged with being the father or mother of the bastard resides, and the amount collected shall be paid to the commissioner, to be by him applied to the support of the child or of the child and its mother, and shall be accounted for by him in a manner approved by the commissioners of accounts. Each commissioner shall have authority to compromise bastardy and abandonment cases arising in the borough or boroughs for which he is appointed.

Maintenance of abandoned wives and children.

Sec. 685. Every person in the city of New York, as constituted by this act, who actually abandons his wife or children without adequate support, or leaves them in danger of becoming a burden upon the public, or who neglects to provide for them according to his means, or who threatens to run away and leave his wife and children a burden upon the public, may be arrested upon a complaint made under oath to a city magistrate and a warrant thereon issued, and brought before such magistrate, as provided by section nine hundred of the code of criminal procedure. And if thereupon it shall appear by the confession of the defendant or by competent testimony that he is guilty of the charge, the said magistrate shall make an order specifying a reasonable sum of money to be paid weekly for the space of one year thereafter by such defendant to the commissioner of public charities for the borough in which such proceeding is had, for the support of the wife or children. But nothing in this chapter contained shall apply to or affect an order for the payment of money for the support of a child in an institution, pursuant to the provisions of section two hundred and eighty-eight of the penal code or of section nine hundred and twenty-one of the code of criminal procedure.

Commitments in abandonment proceedings; surety.

Sec. 686. Any person convicted of any of the offenses hereinbefore recited shall, upon being served with such order, enter into a bond to the people of the state in such sum as such city magistrate shall direct, with good and sufficient surety to be approved by the said city magistrate, that such person will pay weekly for the space of one year such sum for the support of the wife or children or either or any of them, as has been ordered as aforesaid, to the commissioner of the borough in which such proceeding is had. In default of such surety being found, the city magistrate shall make up, sign and file in the office of the clerk of the county in which such conviction is had, a record of the conviction of such offender as a disorderly person, specifying generally the nature and circumstances of the offense and the names of the witnesses by whom it has been established, and shall by warrant commit such offender to the work house on Blackwell's island, or to the penitentiary or jail in the borough where the conviction is had, there to remain until such surety be found or such offender be discharged according to law, or he shall sentence such offender to imprisonment in the penitentiary, for a term not exceeding six months or until such offender gives the security as hereinbefore provided or is discharged according to law. Upon the trial or hearing of all complaints for any or either of the offenses hereinbefore referred to, the wife shall be a competent witness therein against her husband, as to all matters embraced in said complaint.

Actions on bonds in abandonment proceedings.

Sec. 687. Any suit, action or proceeding brought or instituted upon any bond or recognizance given in pursuance of the preceding section shall be brought and prosecuted by and in the name of the commissioner for the borough in which such bond or recognizance was given, and all moneys recovered in any suit, action or proceeding shall be paid to such commissioner to be by him applied and expended for the support of the wife and children, or either or any of them of the person against whom the order mentioned and provided for in section 685 of this act shall have been made. If the person charged with the offenses hereinbefore recited or either of them, is admitted to bail the undertaking of his bail shall be for the future appearance of the defendant according to the terms of the undertaking, or that the bail will pay to the commissioner of the borough in which such proceeding is had, a specified sum in the event of such failure to appear, or if such person deposits a sum of money as directed by law instead of giving an undertaking of bail for his future appearance, and if such person shall thereafter fail to appear in accordance with the terms of said undertaking or the terms upon which the money was deposited, then the said magistrate shall enter the fact of said person's non-appearance upon the minutes and the undertaking of his bail or money deposited instead of bail shall thereupon be forfeited.

Recoveries in abandonment proceedings.

Sec. 688. When such an undertaking is forfeited, an action may be brought in the name of the commissioner for the borough in which such proceeding is had to recover the amount specified in such undertaking, and the amount recovered in said action shall be applied and expended for the support of the wife and

children, or either or any of them, of the person charged with the offenses hereinbefore recited or either or any of such offenses, and when any money has been deposited instead of bail and which shall have been forfeited as hereinbefore provided, said money shall be paid to the commissioner, by the person with whom the said sum of money is deposited, upon presenting to him a certificate from the city magistrate certifying to the forfeiture thereof, which said certificate shall state the name of the person making the deposit, when it was made, the name of the defendant, and that the said sum of money was forfeited on account of the defendant's failure to appear as directed, and shall be signed by said magistrate.

Appeals in abandonment proceedings: costs.

Sec. 689. An appeal to the court of general sessions may be taken from a conviction before a city magistrate under this chapter within the county of New York, or to the county court in any other county which is wholly or partly within the city of New York as constituted by this act, which said appeal shall be conducted under and in accordance with the provisions of the code of criminal procedure of the state of New York, except that the judge allowing the appeal must take from the defendant a written undertaking in such sum and with such sureties as he may approve, that defendant will abide the judgment of the appellate court upon the appeal, and will pay all costs which may be awarded against him, and except that all notices required by said code of criminal procedure to be served upon the district attorney upon such appeal shall be served upon the commissioner for the borough in which the conviction from which such appeal is taken was had, and the commissioner may appear by clerk or counsel upon the hearing of such appeal. The court must award costs to the party in whose favor the appeal is determined, as follows, beside disbursements: To the appellant upon reversal, thirty dollars; to the respondent upon affirmance, twenty-five dollars. When awarded to the appellant they must be paid by the controller of the city of New York on the delivery to him of a certified copy of the order of reversal, and must be charged to the contingent account of the commissioner for the borough in which conviction so reversed was had. When awarded to the respondent the payment of costs may be enforced as in a civil action, and in an action brought therefor against the sureties upon the undertaking given on the allowance of the appeal, the production of a certified copy of the order of affirmance shall be conclusive evidence.

CHAPTER XIV.

DEPARTMENT OF CORRECTION.

Jurisdiction; salary; regulations; subordinate officers.

Sec. 694. The head of the department of correction shall be called the commissioner of correction. He shall be appointed by the mayor and shall hold office, as provided in chapter IV of this act. His salary shall be seven thousand five hundred dollars a year. The commissioner shall have power to establish rules and regulations for the administration of the department and the government of the institutions under his control. He shall have full and exclusive jurisdiction over the several institutions hereinafter specified which are situated or may hereafter be established within the city of New York as constituted by this act. He shall have his principal office in the borough of Manhattan and a branch office in the borough of Brooklyn. He may establish such other branch offices as he may deem necessary. He shall have power to appoint and at will to remove a deputy and such additional deputies and assistant deputies as the board of estimate and apportionment and the municipal assembly may from time to time authorize, and to assign them to duty in such borough or boroughs as he deems proper, and at least one of such deputies shall be assigned to the branch office in the borough of Brooklyn. He shall also have power within the limits of his appropriation to appoint and at will to remove such superintendents, wardens and other subordinate officers and assistants as may be necessary for the efficient performance of the duties of the department. Each deputy so appointed shall during the absence or inability of the commissioner possess all the powers and perform all the duties of such commissioner within the borough or boroughs to which he is assigned. The commissioner may delegate to the superintendent or warden in charge of any institution in the department the power to appoint and remove subordinate officers or assistants in such institutions.

Institutions under the jurisdiction of the commissioner.

Sec. 695. The commissioner shall have jurisdiction over and it shall be his duty to take charge of and manage all institutions for the care and custody of criminals and misdemeanants which belong to or are hereafter acquired by or established in the city of New York as constituted by this act, except the house of refuge for juvenile delinquents and the house of detention of witnesses and the Brooklyn disciplinary training school for boys, and except all jails or places for the detention of prisoners or persons charged with crime which are under the charge of the sheriff or the police department. The commissioner shall also have charge of such other institutions as may be hereafter placed under his jurisdiction by the municipal assembly. Whenever the state authorities shall have caused the inmates of the lunatic asylum on Hart's island to be removed elsewhere and shall have vacated the buildings now on said island occupied by said asylum, the said buildings, with the grounds thereto appertaining, shall become and be under the charge and control of the department of correction; provided, however, that the burial of deceased paupers shall be continued on said island under regulations established by the joint action of the departments of public charities and of correction, or in case of disagreement between said departments, under such regulations as may be established by the mayor of the city.

Transfer of inmates to Riker's island and Hart's island.

Sec. 696. The commissioner, whenever, in his judgment, it is expedient and practicable to do so, may cause to be removed to Riker's island, and in case Hart's island shall have been transferred to the department of correction, as in section 695 of this act provided, then also to Hart's island, the inmates of the workhouse and of the penitentiary on Blackwell's island; and he may direct such removals to be made, from time to time, as accommodation for the said inmates may be provided upon Riker's island and Hart's island or elsewhere within the city of New York. And whenever in consequence of such removals or otherwise any of the buildings theretofore occupied or used for said workhouse or penitentiary shall have become vacant, such building or buildings, with the grounds thereto appertaining, shall be transferred to the department of public charities. And whenever any of the said buildings or grounds shall have been so transferred, the commissioner of correction shall have no further rights, duties or obligations in respect to such building or buildings or grounds, but it or they shall thereafter be included in and appertain to the department of public charities in the city of New York, and shall be under the jurisdiction of the commissioner of charities for the boroughs of Manhattan and the Bronx.

Powers of commissioner over criminals and misdemeanants.

Sec. 697. The commissioner shall have all the authority concerning the care, custody and disposition of criminals and misdemeanants which the commissioner of correction of the corporation known as the mayor, aldermen and commonalty of the city of New York, or which the board of charities and correction for the city of Brooklyn and county of Kings as formerly constituted had at time of the taking effect of this act, and he shall discharge the same duties and be subject to the same obligations in respect to such persons as the said commissioner and board respectively, except in so far as the same are inconsistent with or not modified by this act. The commissioner shall have no authority and be subject to no obligation in respect to any destitute person not charged with or convicted of crime or misdemeanor.

Classification of criminals and misdemeanants; instruction.

Sec. 698. It shall be the duty of the commissioner to cause all the criminals and misdemeanants under his charge to be classified as far as practicable, so that youthful and less hardened offenders shall not be rendered more depraved by the association with and evil example of older and more hardened offenders. The commissioner may establish and maintain such schools or classes for the instruction and training of the inmates of the institutions under his charge, as may be authorized by the board of estimate and apportionment. And to this end the commissioner, with the authority of the municipal assembly, may set apart one of the penal institutions for the custody of such youthful and less hardened offenders, and said commissioner shall have the power, in his discretion, to transfer such offenders thereto from any other of the penal institutions of the city.

Record of inmates of institutions.

Sec. 699. It shall be the duty of the commissioner to keep and preserve a proper record of all persons who shall come under his care or custody, and of the disposition of each such person, with full particulars as to the name, age, sex, color, nativity and religious faith of each, together with a statement of the cause and length of detention of each such person. Such record shall be supplementary to and shall be kept separate from the records required to be kept by section 709 of this act.

Employment of inmates; articles manufactured; cultivation of lands.

Sec. 700. Every inmate of an institution under the charge of the commissioner, whose age and health will permit, shall be employed in quarrying or cutting stone, or in cultivating land under the control of the commissioner, or in manufacturing such articles as may be required for ordinary use in the institutions under the control of the commissioner, or for the use of any department of the city of New York, or in preparing and building sea walls upon islands or other places belonging to the city of New York upon which public institutions now are or may hereafter be erected, or at such mechanical or other labor as shall

be found from experience to be suited to the capacity of the individual. The articles raised or manufactured by such labor shall be subject to the order of and shall be placed under the control of the commissioner, and shall be utilized in the institutions under his charge or in some other department of the city. All the lands under the jurisdiction of the commissioner not otherwise occupied or utilized, and which are capable of cultivation shall in the discretion of the commissioner be used for agricultural purposes.

Detail of inmates to work in department of public charities.

Sec. 701. At the request of any commissioner of public charities of the city of New York, the commissioner of correction may detail and designate any inmate of any of the institutions in the department to perform necessary work, labor and services in and upon the grounds and buildings under the charge of such commissioner of public charities, as provided in chapter XIII of this act, and subject to the restrictions therein contained.

Hours of labor; discipline.

Sec. 702. The hours of labor required of any inmate of any institution under the charge of the commissioner shall not exceed eight hours per day for each such person and shall be fixed by the commissioner. In case any person confined in any institution in the department shall neglect or refuse to perform the work allotted to him by the officer in charge of such institution, or shall wilfully violate the rules and regulations established by the commissioner or resist and disobey any lawful command, or in case any such person shall offer violence to any such officer or to any other prisoner, or shall do or attempt to do any injury to such institution or the appurtenances thereof or any property therein, or shall attempt to escape, or shall combine with anyone or more persons for any of the aforesaid purposes, the officer or officers of such institution shall use all suitable means to defend themselves, to enforce discipline, to secure the persons of the offenders and to prevent any such attempt or escape, and it shall be the duty of the officer in charge of such institution in which such person or persons is or are confined to punish him or them by solitary confinement, and by being fed on bread and water only, for such length of time as may be considered necessary; but no other form of punishment shall be imposed, and no officer of any such institution shall inflict any blows whatever upon any prisoner except in self-defense or to suppress a revolt or insurrection. In every case the officer imposing such punishment shall forthwith report the same to the commissioner and notify the physician of the institution. It shall be the duty of such physician to visit the person so confined and to examine daily into the state of his health until he shall be released from solitary confinement and return to labor, and to report to the commissioner and to the officer in charge of such institution whenever in his judgment the health of the prisoner shall require that he should be released.

Accounts; annual estimate; expenditures.

Sec. 703. The commissioner shall keep accurate and detailed accounts, in a form approved by the controller, of all moneys received and expended by him, the sources from which they are received and the purposes for which they are expended, and shall prepare itemized monthly statements of all receipts and expenditures in duplicate, one of which statements, together with all vouchers, shall be filed with the controller, and one of which shall be filed in his own office. The commissioner shall, on or before the first day of September in each year, prepare an itemized estimate of the necessary expenses of the department for the ensuing fiscal year, which estimate shall constitute the annual estimate of the department of correction, and shall be submitted to the board of estimate and apportionment within the time prescribed by this act for the submission of estimates from the several departments of the city. He shall incur no expense for any purpose in excess of the amount appropriated therefor, nor shall he expend any money so appropriated for any purpose other than that for which it was appropriated.

Advertisements for supplies.

Sec. 704. The commissioner shall from time to time, as may be necessary, advertise in the City Record and in the corporation newspapers, for not less than ten days for proposals for all such articles and supplies (excepting perishable articles) as shall be necessary to be used in and for the institutions in the department, and shall award contracts for the same to the lowest responsible bidders who shall give adequate security for the faithful performance of such contracts. In case of an emergency the commissioner may purchase articles immediately required without calling for competition, but the amount expended by the commissioner for articles so required or for perishable articles shall not exceed the sum of two thousand dollars during any one month.

Requisitions and reports of subordinate officers.

Sec. 705. Each superintendent, warden, or other chief officer of any institution under the charge of the commissioner shall make his requisitions in writing upon the commissioner for all articles deemed necessary by the said officer to be used in the institution or institutions under his charge, and shall keep an accurate account of the same. It shall also be the duty of each such superintendent, warden or other chief officer to report once in each week to the commissioner the number of persons who have been received, discharged or transferred, who have become sick or who have died, and the number remaining in the respective institutions under their charge, the discipline which has been maintained, and the quantity and kind of labor performed, and such other information as the commissioner requires.

Collection of fines.

Sec. 706. The department of correction is hereby authorized to demand and receive fines imposed for intoxication and disorderly conduct in the city of New York as constituted by this act in the manner and for the purposes now prescribed by law.

Commitment of disorderly persons and vagrants.

Sec. 707. Whenever any person is convicted in the city of New York as constituted by this act, of public intoxication, disorderly conduct or vagrancy, the court or magistrate before which or whom such conviction is had shall impose upon the person so convicted one or other of the penalties herein provided. Upon a charge of vagrancy, the persons so convicted shall be committed to the workhouse in said city, or to a county jail, to be detained until discharged pursuant to sections 710 and 711 of this act, and for a term not exceeding six months from the date of such commitment, and the warrant of commitment shall so recite. All persons convicted of any of the offenses last mentioned in any of the boroughs of the city of New York shall be committed to the workhouse on Blackwell's island, or to a county jail, except as hereinafter provided, but may be thereafter transferred by the commissioner to any branch workhouse in the control of the department. Upon a charge of public intoxication or disorderly conduct, the court or magistrate may impose a penalty, as follows:

1. Commit the person so convicted to the said workhouse or jail to be detained until discharged pursuant to sections 710 and 711 of this act, and for a term not exceeding six months from the date of such commitment, and the warrant of commitment shall so recite.

2. Impose a fine not exceeding $10. Upon the payment of the fine imposed, the person so convicted shall be forthwith discharged from custody. If the fine imposed be $2 or less, and be not paid forthwith, the person so fined shall be committed to a city prison or county jail for not exceeding two days, each day of imprisonment to be taken as a liquidation of $1 of the fine. If the fine imposed exceed the sum of $2, and be not paid forthwith, the court or magistrate shall commit the person so fined to a city prison or county jail and the warrant of commitment shall contain a direction that if the fine be not paid before 5 o'clock in the afternoon of the day succeeding such commitment, the person so committed shall be transferred to and detained in the workhouse until discharged pursuant to the provisions of this chapter, and for a term not exceeding six months from the date of such commitment.

3. Require any person convicted of disorderly conduct to give sufficient surety or sureties for his good behavior for any time not exceeding six months. In default of giving such surety forthwith, the court or magistrate shall commit such person to the city prison or county jail to be thereafter transferred to and detained in the workhouse until such surety is furnished, or until discharged pursuant to sections 710 and 711 of this act, not exceeding, however, a term of six months from the date of such commitment. But no such person shall be discharged by the commissioner prior to the expiration of the time for which he was required to give surety, except by order of the magistrate who signed the last warrant of commitment, granted as provided in this chapter.

Superintendent of the workhouse; reports.

Sec. 708. It shall be the duty of the superintendent of the workhouse to ascertain from the records thereof, and from examination and inspection of the person committed as aforesaid, whether such person has, since April 4, 1895, and within two years next preceding the date of his commitment, been previously committed to such institution upon conviction of public intoxication, disorderly conduct, or vagrancy. Within twenty-four hours after the commitment of any such person to the workhouse, the said superintendent shall transmit to the commissioner a written statement showing the name, sex, age, residence, occupation, height, weight and the color of the hair of any such person, and describing any scars, marks or deformities or other signs whereby such person may subsequently be identified, the date of the commitment, the offense for which such person was committed and the name of the magistrate by whom the commitment was made. Such statement shall also show whether such person has been previously committed to such institution within the period, and for any one of the causes above specified, and, if so, the number of times that such

person has been so committed during such period, the date of the last previous commitment of such person for either of said offenses, the name of the magistrate by whom and the offense for which such last previous commitment was made, and the period of detention under such last previous commitment.

Record of persons committed.

Sec. 709. It shall be the duty of the commissioner to keep a book or books in which shall be properly recorded the names of all persons committed under section 707 of this act, and all other facts which shall be certified to him by the superintendent of the workhouse as herein required. Such book or books are hereby declared to be public records and shall be open to public inspection, and shall be indexed and kept so as to show whether any person committed, as prescribed by this chapter, has been previously committed within two years next preceding such commitment for any of the causes herein specified.

Term of detention to be fixed by commissioner.

Sec. 710. Within three days after the commitment of any person as herein provided, it shall be the duty of the commissioner to ascertain from the aforesaid records whether such person has been committed to the workhouse after April fourth, eighteen hundred and ninety-five, and within two years next preceding the date of such commitment for public intoxication, disorderly conduct or vagrancy, and to make a written order specifying the date at which such person shall be discharged, as follows, namely: In the case of a person who has not previously been committed for any one of the offenses herein specified within two years next preceding the date of his last commitment, and after April fourth, eighteen hundred and ninety-five, the said order shall direct that such person shall be discharged at the expiration of five days from the date of his commitment; in the case of a person who has been committed once before within the period of two years next preceding the day of his commitment, and after April fourth, eighteen hundred and ninety-five, for any of the offenses herein specified, the said order shall direct that such person shall be discharged at the expiration of twenty days from the date of his commitment; and in the case of a person who has been committed more than once during the two years next preceding the date of his commitment, and after April fourth, eighteen hundred and ninety-five, for any of the offenses herein specified, the said order shall direct that such person be discharged at the expiration of a period equal to twice the term of his detention under the last previous commitment, but not in any event exceeding six months; provided, however: First, that in the case of a person committed upon conviction of vagrancy, the said order may direct that the said person shall be discharged at the expiration of a period to be fixed by the commissioner and stated therein, not exceeding six months and not less than the period of detention above specified for first and subsequent commitments, as the case may be; Second, that whenever the period of detention of any such person under his last previous commitment shall have exceeded the period of detention provided for by this section (either by reason of his detention on failure to furnish surety for his good behavior or by reason of the action of the commissioner upon a conviction of vagrancy), then such excess of detention under his last previous commitment shall not be considered by the commissioner in determining the date of his discharge under the existing commitment. The date of any order made pursuant to this section and the name of the person whose period of detention is fixed thereby, and the period of detention therein specified shall be entered in the records required to be kept by section 709 of this act, and the said order shall forthwith be transmitted to the superintendent of the workhouse. Upon the expiration of the term of detention specified therein, and upon the discharge of the person named therein it shall be the duty of such superintendent forthwith to return such order, with a written certificate indorsed thereon specifying the date of the discharge of the person named therein to the commissioner, who shall preserve the same as a public record.

Discharge of persons committed.

Sec. 711. In any case where the period of detention, as fixed by the commissioner shall exceed twenty days, and shall be less than one hundred and sixty days, the magistrate who signed the last warrant of commitment may, after the expiration of twenty days, direct the discharge of any person so committed, but no such order or mandate shall be granted by any magistrate except upon the written certificate of the commissioner specifying the period of detention fixed by him for the person so committed, and upon an affidavit setting forth facts which in the opinion of the said magistrate, shall justify such discharge. The said affidavit and certificate shall be filed and preserved with the complaint upon which such person was last convicted. Upon any subsequent commitment, under section 707 of this act, of a person so discharged, the commissioner shall fix the period of detention of such person at the term for which he would have been detained under the existing commitment if no such order or mandate had been granted.

Transfer of inmates by commissioner.

Sec. 712. The commissioner may transfer and commit and cause to be transferred and committed from the workhouse to the city prison, penitentiary or to any other of the institutions in the department, any person committed to the workhouse under section 707 of this act, whenever such transfer shall be necessary for the proper care and management of such city prison, penitentiary or other institution or for the proper employment of such person. The commissioner may also transfer and commit and cause to be transferred from the workhouse to the city prison or penitentiary, any person committed to the workhouse under section 707 of this act, whenever, by reason of the number of offenders actually detained in such workhouse at any time, there shall not be accommodation therein for all the persons committed thereto; and in like manner the commissioner may transfer prisoners from one penitentiary to another penitentiary within the department or from one district prison to another district prison within the department, whenever it may be necessary to prevent overcrowding. The commissioner may also transfer and commit or cause to be transferred and committed from the city prison to the workhouse to be detained and employed therein any person who shall have been duly committed to the city prison.

Alteration and repair of buildings.

Sec. 713. Whenever the increase of inmates in or the proper care and government of the institutions in the department shall in the judgment of the commissioner render it necessary or expedient, he shall have power to enlarge or alter the building or buildings occupied by such institutions; and he shall also have power to make all needful repairs to such buildings and the appurtenances thereto, provided that an appropriation has been made therefor. The commissioner shall when practicable cause the work of such alterations or repairs to be done by persons confined in such institutions.

Additional gifts to be given to inmates on discharge.

Sec. 714. In addition to the donations, provided by the general laws of the state, to be given to inmates of penal institutions upon their discharge, the commissioner of corrections shall donate to each inmate serving a term longer than three years the sum of five dollars upon his discharge.

CHAPTER XV.

FIRE DEPARTMENT.

Title 1. Organization, duties and powers of officers and men.
2. Fires and their extinction.
3. Prevention of fires; explosives and combustible materials.
4. Fire marshals and investigation of origin of fires.
5. Relief fund and pensions.
6. Tax upon foreign insurance companies.

TITLE 1.

ORGANIZATION, DUTIES AND POWERS OF ITS OFFICERS AND MEN.

Fire commissioner; salary.

Sec. 720. The head of the fire department shall be the fire commissioner. He shall be appointed by the mayor and hold office as provided in chapter IV of this act. The salary of the fire commissioner shall be seven thousand five hundred dollars a year.

Deputies.

Sec. 721. The fire commissioner shall appoint a deputy commissioner, who shall be seated at the office of the fire department in the borough of Brooklyn, through whom such business, duties and powers of the fire department in the boroughs of Brooklyn and Queens shall be conducted, performed and exercised, as may be directed by the fire commissioner.

Consolidation of departments; volunteer departments.

Sec. 722. The officers and members of the uniformed force and legally appointed firemen in the corporation formerly known as the mayor, aldermen and commonalty of the city of New York, and in the city of Brooklyn and in the city of Long Island City, are hereby made members of the fire department of the city of New York, as hereby constituted, and shall be assigned to duty therein by the fire commissioner, with the rank and grade now held by them respectively, as nearly as may be practicable. The paid fire department system shall, as soon as practicable, be extended over the boroughs of Queens and Richmond, by the fire commissioner, and thereupon the present volunteer fire departments now maintained therein shall be disbanded. Any real property and likewise any apparatus, equipment or other personal property owned or used by said volunteer forces which may be deemed useful or necessary for the use of the fire department, shall, upon the extension of the paid system to the boroughs of Queens and Richmond, respectively, be purchased by the fire commissioner at the reasonable value thereof. In the meantime, and until the said paid fire department shall be extended over said territory as herein

provided, said volunteer fire companies shall continue to discharge the duties for which they have been associated or incorporated, and said companies shall receive from the city such sums as are now awarded them by the villages or towns in which they are respectively located. Whenever hereafter the paid fire department shall be extended into any part of the territory of the city of New York, as hereby constituted, in which now or hereafter there shall exist a volunteer fire department, such members of said volunteer fire department in said locality as may be in active service shall, so far as practicable, be preferred for appointment as firemen in the paid department; and the volunteer benevolent associations existing within said territory shall possess all the privileges, and be entitled to all the rights now conferred by law on such associations.

Treasurer.

Sec. 723. The fire commissioner shall be the treasurer of the fire department, and shall file in the office of the controller a bond in the sum of one hundred thousand dollars for the faithful performance of his duties as such treasurer.

Powers.

Sec. 724. The fire commissioner shall possess and exercise fully and exclusively all powers and perform all duties for the government, management, maintenance and direction of the fire department of the city, and the premises and property thereof. The said department shall have sole and exclusive power and authority to extinguish fires in said city. All real estate, fire apparatus, hose, implements tools, bells and bell towers, fire telegraph and all property, of whatever nature, in use by the firemen or fire department of the city, belonging to said city, shall be in the keeping and custody of the fire department, and for the use of said department. But the said property shall remain the property of the city of New York, subject to the public uses of said department, as aforesaid and for the purposes provided by this chapter. And whenever any of the said property shall no longer be needed by the said department for the purposes of this chapter the commissioner shall surrender the same to the city.

Horses, apparatus, etc., to be provided.

Sec. 725. The fire commissioner shall, subject to the other provisions of this act, have full power to provide supplies, horses, tools, implements and apparatus of any and all kinds (to be used in the extinguishing of fires) and fire telegraphs, to provide suitable locations for the same and to buy, sell, construct, repair and have the care of the same, and take any and all such action in the premises as may be reasonably necessary and proper.

To control and manage property, etc.

Sec. 726. The fire commissioner shall possess and exercise full and exclusive power and discretion for the government, management, maintenance and direction of the several buildings and premises and bell towers and property and appurtenances thereto, and all apparatus, hose, implements and tools of any and all kinds which may belong to or be in the use of the said department.

Bureaus.

Sec. 727. The fire commissioner shall have power to organize the fire department into such bureaus as may be convenient and necessary for the performance of the duties imposed upon him. One bureau shall be charged with the duty of preventing and extinguishing fires and of protecting property from water used at fires, the principal officer of which shall be called the "chief of department." Another bureau shall be charged with the execution of all laws relating to the storage, sales and use of combustible materials, the principal officer of which shall be called "inspector of combustibles." The salary of said inspector of combustibles shall be $3,000 a year. Another bureau shall be charged with the investigation of the origin and cause of fires, the principal officers of which shall be called "fire marshals." A branch of said bureau shall be located in the borough of Brooklyn.

Selection of subordinates.

Sec. 728. The fire commissioner shall have power to select heads of bureaus and assistants and as many officers and firemen as may be necessary, and they shall at all times be under the control of the fire commissioner and shall perform such duties as may be assigned to them by him, under such names or titles as he may confer; provided, however, that assignments to duty and promotions shall be made by the fire commissioner upon the recommendation of the chief of department, and in case any recommendation so made by the chief shall be rejected, he shall, within three days, submit another name or names, and continue so to do until the assignment or promotion is made.

Location of fire alarm telegraph, etc.: penalty for interference therewith.

Sec. 729. The fire commissioner shall have exclusive right and power from time to time to designate and fix the location of all fire-alarm, telegraph, signal and alarm stations in the city, and to have access to and the control of the same for the purposes of the department, to fix upon and adopt the colors or combination of colors in painting the poles, boxes and fixtures thereof, and the kind or style of keys and appliances by which to operate the same; to select and designate the places of deposit for keeping the keys of the various stations, and to designate the officers and persons who shall be intrusted with duplicate keys and authorized to use the same, and to make from time to time such rules and regulations governing the possession, return, or use thereof, and as to the use and control of said telegraph, as they may deem necessary; and no person other than the said commissioner or the officers and employes specially authorized to operate said telegraph, or to use the same for instruction or drill, or policemen or citizens using the same for communicating an actual alarm of fire, shall make use thereof; and no person shall use the keys or appliances thereof for communicating a false alarm, or experimenting or tampering with the same for any purpose whatever, or have or possess any key thereof, without such authority; and no person, association, corporation, or company, shall post, paint, impress, or in any way affix to any pole connected with said fire-alarm telegraph, or any box, wire, or other appliance connected therewith, any placard, sign, broadside, notice, or announcement of any kind, or cut, mutilate, alter, mar, deface, cover, obstruct or interfere with the same in any manner whatsoever or paint or cause to be painted, the poles of any other telegraph, or any other poles on the lines thereof, of a similar color or colors, or in imitation thereof, nor consent, allow, or be privy to any of said things being done for them or upon their behalf; and any offense against the provisions of this section shall be punished as a misdemeanor, and subject the party or parties violating the same to an additional penalty of $100. No kite shall be flown, raised, or put up in the streets or avenues adjacent to the lines of said telegraph, or allowed to become entangled with the wires or apparatus of said telegraph, under a penalty of $10 for every such offense; and the police board and their officers are specially charged and directed to aid in the enforcement of this section.

Business offices; seal.

Sec. 730. The said fire commissioner shall, subject to the other provisions of this act, provide such offices and business accommodations as may be requisite for the transaction of the business of the department and that of its subordinates. The commissioner may adopt a common seal and direct its use.

Suits and actions.

Sec. 731. The fire commissioner is hereby authorized, empowered and especially charged with the duties of enforcing the several provisions of this chapter, and may, subject to the other provisions of this act, incur any expense necessary and proper therefor, and said fire commissioner is hereby authorized and empowered to receive and collect all license fees mentioned in this chapter, and to sue for, and shall have the exclusive right of recovery of, any and all penalties imposed under this chapter, and may sue for and recover and collect the same, with costs, in the manner provided for in actions under the code of civil procedure, and shall apply the same to the uses and purposes of the relief fund of the fire department in the city of New York, and the said fire commissioner may bring any suit or action for the enforcement of its rights and contracts, and for the protection, possession and maintenance of the property under the control of said department, and any action to recover any fee, fine or penalty under this chapter may be brought in any of the municipal courts in said city, and the assistant corporation counsel assigned to the fire department shall, under the direction of the fire commissioner, take charge of the prosecution of all suits or proceedings instituted for the recovery and collection of penalties, and the enforcement of the several provisions of this chapter; collect and receive all moneys upon judgments, suits or proceedings so instituted; pay all costs and disbursements, and discontinue suits and proceedings and execute satisfaction of judgments upon payment of penalties or costs, and in compliance with orders made in such suits and proceedings; shall keep a correct and accurate register of all suits and proceedings, and account for all moneys received and paid out thereon; and shall pay over to the treasurer of the relief fund the amount of all license fees, penalties and moneys received and collected by him, and the said fire commissioner is authorized to settle or compromise any such suit or judgment for less than the amount of the same, in case, in his judgment, he is satisfied that the full amount cannot be collected.

Members of force to decline nominations to office.

Sec. 732. Any officer or member of the uniformed force of said department who shall be publicly nominated for any office, elective by the people, and who shall not decline the said nomination within ten days succeeding notice of the same, shall be deemed to have vacated his office in the fire department.

Uniforms and badges.

Sec. 733. It shall be the duty of the fire commissioner to make suitable regulations under which the officers and men of the fire department shall be required to wear an appropriate uniform and badge, by which in

case of fire and at other times the authority and relations of such officers and men in said department may be known as the exigency of their duties may require. It shall be a misdemeanor, punishable by imprisonment for a period of not less than sixty days, for a person not enrolled or employed, or appointed by the said department, to wear the whole or any part of the uniform or insignia prescribed to be worn by the rules or regulations of the fire department, or do any act as fireman not duly authorized by the commissioner, or to interfere with the property or apparatus of the fire department in any manner unless by the authority of the fire commissioner. Any person who shall falsely represent any member of the uniformed force of the fire department, or who shall maliciously, with intent to deceive, use, or imitate any of the signs, fire caps, badges, signals or devices adopted or used by the said department, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than $25 or more than $250, and to imprisonment for a term not less than ten days, or more than three months, such fines when collected to be paid over to the trustees of the New York fire department relief fund.

Qualifications of force.

Sec. 734. No person shall be appointed to membership in the fire department or continue to hold membership therein, who is not a citizen of the United States, or who has ever been convicted of felony; nor shall any person be appointed who cannot read and write understandingly in the English language, or who shall not have resided within the state one year immediately prior to his appointment, or who is not over the age of twenty-one and under the age of thirty years.

Resignations and absences.

Sec. 735. No member of the fire department shall, under penalty of forfeiting the salary or pay which may be due to him, withdraw or resign, except by permission of the fire commissioner. Unexplained absence, without leave, of any member of the uniformed force, for five days, shall be deemed and held to be a resignation by such member, and accepted as such.

Military and jury duty: arrest.

Sec. 736. No person holding office under this department shall be liable to military or jury duty, nor to arrest on civil process, or, whilst actually on duty, to service of subpenas from civil courts.

Warrants of appointment.

Sec. 737. Every member of the uniformed force shall have issued to him a proper warrant of appointment signed by the fire commissioner.

Oaths of office.

Sec. 738. Each member of the uniformed force shall take an oath of office, and subscribe the same before an officer of the department empowered to administer an oath,

Discipline, etc.

Sec. 739. The government and discipline of the fire department shall be such as the fire commissioner may, from time to time, by rules, regulations and orders prescribe. The fire commissioner shall have power, in his discretion, on conviction of a member of the force of any legal offense or neglect of duty, or violation of rules, or neglect or disobedience of orders, or incapacity, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct, or conduct unbecoming an officer or member or other breach of discipline, to punish the offending party, by reprimand, forfeiting and withholding pay for a specified time, or dismissal from the force; but no more than ten days' pay shall be forfeited and withheld for any offense. Officers and members of the uniformed force shall be removable only after written charges shall have been preferred against them, and after the charges shall have been publicly examined into, upon such reasonable notice to the person charged, and in such manner of examination as the rules and regulations of the fire commissioner may prescribe. The examination into such charges shall be conducted by the fire commissioner or by the deputy commissioner; but no decision shall be final or be enforced, until approved by the fire commissioner.

No member of the uniformed force shall be permitted to contribute any moneys directly or indirectly to any political fund, or to join or become or be a member of any political club or association, or of any club or association intended to affect legislation for or on behalf of the fire department or any officer or member thereof, or to contribute any money directly or indirectly for such purpose.

The rules and regulations now established in the respective fire departments of the city of New York, the city of Brooklyn, and Long Island City, shall continue in force until modified or repealed by said commissioner. The rules and regulations of the fire department, when established by the fire commissioner, shall be printed, published and circulated among the officers and members of said department.

Grades, ranks and salaries of officers and members of the uniformed force.

Sec. 740. The ranks and salaries of officers of the fire department shall be as follows: Chief of department, whose annual salary shall be not more than six thousand dollars nor less than five thousand dollars; deputy chiefs of department, whose annual salary shall be not more than four thousand, nor less than three thousand five hundred dollars; battalion chiefs, whose annual salary shall be not more than three thousand five hundred dollars nor less than two thousand seven hundred and fifty dollars; captains or foremen of companies whose annual salary shall be not more than two thousand five hundred dollars nor less than eighteen hundred dollars; lieutenants or assistant foremen of companies, whose annual salary shall be not more than eighteen hundred dollars nor less than one thousand five hundred dollars; engineers of steamers, whose annual salary shall be not more than one thousand six hundred dollars nor less than one thousand three hundred dollars.

From and after January 1, 1898, the uniformed members of the fire department who are firemen shall be divided into four grades, to wit, first, second, third and fourth, and shall receive an annual pay or compensation as follows: Members of the first grade, fourteen hundred dollars; members of the second grade, twelve hundred dollars; members of the third grade, one thousand dollars, and members of the fourth grade, eight hundred dollars.

The members of the uniformed force who are appointed after January 1, 1898, shall be assigned to the fourth grade; after one year of service in the fourth grade they shall be advanced to the third grade; after one year of service in the third grade they shall be advanced to the second grade; after one year of service in the second grade they shall be advanced to the first grade; and they shall in each instance receive the annual pay or compensation of the grade to which they belong as herein provided.

All persons who, when this act takes effect, are firemen in the uniformed force of the fire department of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or of the city of Brooklyn, or of the corporation heretofore known as Long Island City, shall thereupon become firemen of that grade having a salary thereto attached equal to the salary or compensation paid such firemen, respectively, at the time of the taking effect of this act; provided, however, that any such fireman who has been a member of the uniformed force in the city of Brooklyn, or in Long Island City, whose salary falls between any two of the grades hereby established, shall within three years have his salary made equal to the salary of the first grade by equal annual additions.

Nothing in this section contained shall be construed to change in any way the salaries or grading, present or prospective, of the firemen who are or shall become members of the uniformed force of the New York fire department prior to January 1, 1898; and nothing in this section contained shall be construed to affect in any other way than as provided herein the rights and privileges secured under the provisions of this act to uniformed members of the various fire departments consolidated into one department by this act.

The pay or compensation of the officers of the fire department and each of them mentioned in the first paragraph of this section, and also the pay or compensation of district engineers and officers ranking as such, and of any other officers who, when this act takes effect, belong to the uniformed force of either of the fire departments hereby consolidated into one department, shall be and remain fixed at the amount which they and each of them were severally receiving or entitled to receive from the respective municipal corporations in whose employ they were prior to the taking effect of this act; provided, however, that the salaries of all such officers in either of said fire departments other than the New York department, so consolidated into one department, shall be made equal to the salaries of corresponding officers in said New York department, within three years from January 1, 1898, by equal annual additions; and provided further that if the difference in the pay received by such officers and the pay received by corresponding officers of the New York fire department as heretofore existing, is not more than $50, when this act takes effect, the pay shall be equalized at once.

The pay or compensation aforesaid shall be paid monthly to each person entitled thereto, subject to such deductions each month from the pay or compensation of said persons as are or shall be authorized by law or by this act; and no pay or compensation shall be allowed or paid to any such fireman or officer, except as in this section provided for and declared, any other law to the contrary or otherwise notwithstanding.

Police department to co-operate.

Sec. 741. It shall be the duty of the fire department and of the police department, their respective officers and men, to co-operate together in all proper ways, and the said police department and fire department may respectively provide for protection against fire and for the arrest of all persons who may, at or near any fire, commit or attempt to commit any crime against the laws

of this state, or violate any rule or regulation of said police department or fire department.

TITLE 2.

FIRES AND THEIR EXTINCTION.

Right of way: obstructing.

Sec. 748. The officers and men of the fire department, with their apparatus of all kinds, when on duty, shall have the right of way at any fire in any highway, street or avenue, over any and all vehicles of any kind, except those carrying the United States mail. And any person in or upon any vehicle who shall refuse the right of way, or in any way obstruct any fire apparatus, or any of said officers while in the performance of duty, shall be guilty of misdemeanor and be liable to punishment for the same.

Hose-bridges on railway tracks.

Sec. 749. The fire commissioner is empowered to provide for the laying on the railway tracks of the city, over the hose used by the department for the extinguishment of fires, such hose bridges as he may deem necessary, and the various horse and steam railway companies running cars within the limits of the city of New York shall provide and use such hose bridges as may be designated by the fire commissioner. Such bridges shall be paid for by the railway companies using the same.

Fire hydrants not to be obstructed.

Sec. 750. No person shall in any manner obstruct the use of any fire hydrant in said city, or allow any snow or ice to be thrown or piled upon or around the same, or have or place, or allow to be placed, any material in front thereof, from the curb line to the center of the street, and to within ten feet from either side thereof, and all snow and ice accumulating within such space shall be removed by the owner or owners, lessee or lessees, of the premises fronting the same in the same manner as is prescribed for the keeping clear of the sidewalk, under a penalty of $10 for each and every such offense; and any and all material found as an obstruction, as aforesaid, may be forthwith removed by the officers or employes of said department, and at the risk, cost and expense of the owner or claimant, and said fire commissioner may take all proper measures to keep said hydrants from freezing, and in proper condition for use at all times.

Sappers and miners.

Sec. 751. The fire commissioner is hereby empowered and directed to maintain in the fire department a corps to be known as the corps of sappers and miners. Said corps shall be composed of not exceeding three members, either officers or private firemen, of each company in said fire department, and said members shall be appointed by said commissioner, upon the nomination of the chief of department. The said commissioner shall appoint a suitable officer, who shall be skilled in the use of explosives, whose duty it shall be to instruct and drill said corps in the use of explosives, and to give said corps such other instruction as may be required to qualify them to effectually discharge the duties imposed upon them by this title. Such officer shall receive an annual salary of $2,000, and such salary shall be raised and paid in the same manner as the salaries of the other officers appointed by said commissioner.

Id. Duties of.

Sec. 752. Whenever, under and by virtue of the acts relating to the extinguishment of fires in the city, the destruction or pulling down of any building or buildings shall be deemed necessary and shall be ordered by the officer in command at any fire in said city, it shall be the duty of said corps, or any member or members thereof, by the direction of said officer in command at such fire, to level and destroy such building or buildings, by the use of explosives, for the purpose of arresting the spread of such fire, and it shall be lawful for them to enter and take possession of the same for such purposes.

Explosives: depots for storage of.

Sec. 753. The fire commissioner shall establish in the city of New York, one or more depots for the storage and safe keeping of such explosives as may be required for the use of said corps, and may limit the quantity of any such explosives to be kept at any one of such depots.

Pulling down buildings to prevent spread of fire.

Sec. 754. When any building or buildings in the city of New York shall be on fire, it shall be lawful for the fire commissioner to direct and order the same, or any other building which he may deem hazardous, and likely to take fire, or to convey the fire to other buildings, to be pulled down or destroyed. Upon the application of any person interested in such building so pulled down or destroyed, to the supreme court, in the judicial department within which such building is situated, it shall be its duty to issue a precept for a jury to inquire into and assess the damages which the owners of such building and all persons having an estate or interest therein have respectively sustained by the pulling down or destruction thereof; which precept shall be issued, directed, executed, returned and proceeded upon, and the proceedings thereon shall take effect, as nearly as may be, in such manner as is provided in the case of land taken for public purposes; and, the said inquiry and assessment having been confirmed by the court, the sums assessed by the jury shall be paid by the city of New York to the respective persons in whose favor the jury shall have assessed the same, in full satisfaction of all demands of such persons respectively, by reason of the pulling down or destruction of such building; and the court before whom such process shall be returnable shall have power to compel the attendance of jurors and witnesses upon any such assessment of damages.

Idle persons, etc., may be removed from fires.

Sec. 755. During the actual prevalence of any fire, it shall and may be lawful for the officers of the police and fire departments to remove, or cause to be removed and kept away from the vicinity of such fire all idle and suspicious persons, and all persons not fit to be employed or not actually and usefully employed, in their judgment, in aiding the extinguishment of such fire or in the preservation of property in the vicinity thereof.

TITLE 3.

PREVENTION OF FIRES—EXPLOSIVES AND COMBUSTIBLE MATERIALS.

Shavings: how to be stowed away.

Sec. 760. All carpenters or others in said city making or using shavings shall, at the close of each day, cause the same to be securely stowed in some safe place remote from danger by fire, under the penalty of $5 for each omission to do so. No person shall kindle any fire nor furnish the materials, nor in any way authorize or allow any fire to be made in any street, road, alley, lane or upon any pier, wharf or bulkhead in the city, except under such regulations as shall be established by the fire commissioner, under a penalty of $10 for each and every such offense. If any chimney, stove pipe or flue within the city shall take fire the occupant of the premises to which such chimney, stove or flue appertains shall forfeit the sum of $5.

Hoistways, iron shutters, etc., to be closed.

Sec. 761. All hoistways, well holes, trap doors and iron shutters shall be closed at the completion of the business of each day by the occupant of the building having use or control of the same, and in case of a violation of this provision such occupants having the use or control thereof shall forfeit and pay a penalty of $50 for each and every neglect or omission so to do. And for any accident or injury to life and limb, resulting directly or indirectly from any neglect or omission to properly comply with any of the requirements of this section, the person or persons culpable or negligent in respect thereto shall be liable to pay any officer, agent or employe of said fire department injured, or whose life may be lost (resulting from such neglect or omission) while in the discharge or performance of any duty imposed by said commissioner, or to the wife and children, or to the parents, or to the brothers and sisters, being the surviving heirs at law of any deceased person thus having lost his life, a sum of money, in case of injury to person, not less than $1,000, and in case of death not less than $5,000, such liability to be determined and such sums recovered in an action to be instituted by said fire commisisoner for and in behalf of any person injured, or the family or relatives of any person killed as aforesaid; and any and all persons for any fire, resulting from his or their willful or culpable negligence or criminal intent or design, shall, in addition to the present provisions of law for the punishment of persons convicted of arson, be liable in a civil action for the payment of any and all damages to the person and property, the result of such fire, and also for the payment of all costs and expenses of said fire department incurred in and about the use of employes, apparatus and materials in the extinguishment of any fire resulting from such cause, the amount of such costs and expenses to be fixed by said commissioner, and when collected shall be paid into the relief fund of said department herein created; and shall also be liable for injury to person or loss of life of any officer, agent or employe of said fire department in the same manner and like extent, and to be sued for in like manner as in the preceding part of this section provided for.

Lights, precautions against fire and use of aisles in places of amusement.

Sec. 762. All lights used in theaters and other places of public amusement, manufactories, stores, hotels, lodging houses and in show windows shall be properly protected by globes or glass coverings, or in such other manner as the fire commissioner shall prescribe. The owners and proprietors of all manufactories, hotels, tenement houses, apartment houses, office buildings, boarding and lodging houses, warehouses, stores and offices, theaters and music halls, and the authorities or persons having charge of all hospitals and asylums, and of the public schools and other public buildings, churches and other places where large numbers of persons are congregated for purposes of worship, instruction or amusement, shall provide such means of communicating alarms of fire, accident or danger, to the police and fire departments respectively as the fire commissioner or police

board may direct, and shall also provide such fire hose, fire extinguishers, buckets, axes, fire hooks, fire doors and other means of preventing and extinguishing fires as said fire commissioner may direct. In every building used or occupied as a hotel, lodging house or public or private hospital or asylum, there shall be employed by the owner or proprietor, or other person or persons having the charge or management thereof, one or more watchmen, whose exclusive duty it shall be to visit every portion of such building, at regular and frequent intervals, under rules and regulations to be established by the fire commissioner, for the purpose of detecting fire or other sources of danger, and giving timely warning thereof to the inmates of the building. In every room in each of said buildings there shall be posted a card, upon which shall be printed a diagram showing the exits, halls, stairways, elevators and fire escapes, and in the halls and passageways, signs shall be posted indicating the location of the stairs and fire escapes. In each of the said buildings there shall be placed and provided electrical or other alarms and time detectors, to be approved by the fire commissioner, by means of which the movements of said watchman may be recorded, and through which alarms of fire or other danger may be instantly communicated, by means of bells or gongs, to every portion of the building. Said electrical apparatus, and all other appliances placed or kept within any of said buildings for the purpose of preventing or extinguishing fires, or for affording means of escape therefrom in case of fire, shall be kept at all times in good working order and proper condition for immediate use, and any member of the uniformed force of said department may enter any of the said buildings at any time for the purpose of inspecting said apparatus or appliances. The fire commissioner may detail, not to exceed two members of the uniformed force of said department, at each and every place of amusement where machinery and scenery are in use, while such place is open to the public, whose duty it shall be to guard against fire, and who shall have charge and control of the means provided for its extinguishment, and shall have control and direction of the employes of the place to which they may be detailed for the purpose of extinguishing any fire which may occur therein. It shall also be the duty of such member or members of the uniformed force of said department to inspect every portion of the building or buildings to which they may be detailed, during public performances therein, for the purpose of guarding and protecting the occupants from fire or panic. Whenever any member of the uniformed force of said department shall discover in any inside aisle or passageway in any such place of amusement any camp stools, chairs, sofas or other obstructions, or any person or persons standing or sitting therein during any public performance, it shall be the duty of such member of the uniformed force forthwith to notify the proprietor or manager of such place of amusement, or any usher, agent or other employe of such proprietor or manager then present, to cause such obstruction to be forthwith removed, or to cause the person or persons standing or sitting in such aisles or passageways to forthwith vacate the same. If the manager or proprietor, or such usher, agent or employe shall cause or permit any camp stool, chairs, sofas or other obstructions to be placed or remain in any aisle or passageway, in any such place of amusement, or shall cause, or permit any person to stand or sit therein during any public performance, or, having been so notified, shall neglect or refuse to cause such obstruction to be forthwith removed, or to cause such person or persons to forthwith vacate said aisles or passageways, they shall each severally be deemed to have violated the provisions and requirements of this title and the regulations or orders duly made thereunder, and shall be subject to the penalties prescribed in this act. In all places of public amusement or entertainment, not included in the foregoing provisions, except in fireproof buildings, there shall be employed, by the owner or proprietor thereof, one or more watchmen whose exclusive duty it shall be to protect and guard the inmates of such buildings from fire and other sources of danger.

Gunpowder and other explosives: sales thereof regulated.

Sec. 763. No person shall manufacture, have, keep, sell or give away any gunpowder, blasting powder, gun cotton, nitroglycerine, dualin, or any explosive oils or compounds within the corporate limits of the city of New York, except in the quantities limited, in the manner and upon the conditions herein provided, and under such regulations as the fire commissioners shall prescribe; and said commissioner shall make suitable provision for the storage and safe keeping of gunpowder and other dangerous and explosive compounds or articles enumerated under this title, beyond the interior line of low water mark in the city of New oYrk. The said commissioner may issue licenses to persons desiring to sell gunpowder or any of the articles mentioned under this section at retail, at a particular place in said city to be named in said license (provided that the same shall not be in a building used in any part thereof as a dwelling, unless specially authorized by said license,) and persons so licensed may have on their premises, if actually kept for sale, a quantity not exceeding at any one time, of nitroglycerine, five pounds; of gun cotton, five pounds; of gunpowder, fourteen pounds; blasting powder, twenty-five pounds; and all of said articles shall be put up in tight metallic canisters, containing, or capable of containing not more than one pound each; and the person so licensed shall place on some conspicuous part of the front of the stores or buildings in which they may be licensed to sell powder, or any of the articles named under this section, a sign on which shall be distinctly printed, in characters legible to persons passing such stores or buildings, the words, "Licensed to sell gunpowder," or designating such other of the articles herein named as is there offered for sale; and every barrel, cask, canister, bottle, can, vessel, box or parcel, in which the same is sold, or into which the same is delivered on being sold, shall be distinctly labeled with a printed sign or label, printed upon or firmly affixed thereto, describing the article contained therein, with the word "Danger" distinctly printed below the same. No nitroglycerine, dualin or gunpowder shall be manufactured in said city, and no quantities of nitroglycerine, dualin or gunpowder greater than above provided shall be kept, carried or conveyed within said city; except that for the purposes of distribution to or delivery from stores and buildings in said city a quantity not more than five quarter casks may be carried at any one time, during the daytime, for the purpose of transportation from any vessel or sending the same to said stores or buildings, or any vessel or place without said city; provided, that in the carrying or conveying the same it shall be protected by being completely and securely covered with a leather or canvas cover or case and marked "gunpowder." The commander, owner or owners of any ship or other vessel arriving in the harbor of New York and having more than twenty-eight pounds of gunpowder, dualin or nitroglycerine on board, shall within forty-eight hours after the arrival and before such ship or vessel shall approach nearer than three hundred yards of any wharf, pier or slip to the southward of a line drawn through the center of Seventy-third street, immediately give written notice to the said commissioner of the fact that such powder or nitro glycerine is on such vessel; but it shall be lawful either to proceed with such ship or vessel to sea within forty-eight hours after her arrival or to transship such gunpowder, dualin or nitroglycerine from one ship or vessel to another for the purpose of immediate transportation without landing the same; provided, however, that the provisions of this section shall not apply to any vessel receiving gunpowder on freight on any one day, provided such vessel do not remain at any wharf of the said city or be within three hundred yards thereof after sunset. All gunpowder, gun cotton, blasting powder, dualin, nitroglycerine or other explosive compound found in violation of this section shall be forthwith seized and safely stored and be sold upon three days' notice to the owner or claimant; and the proceeds of such sale, after deducting all expenses, shall be forfeited and paid over to and for the use and benefit of the relief fund of the fire department of the city of New York. Nothing contained in this section shall be construed to apply to any ship or vessel of war in the service of the United States or of any foreign government while lying distant three hundred yards or upward from the wharves, piers or slips of the said city, nor to any ship or vessel of war in the service of the United States while lying at any part of the navy yard in the borough of Brooklyn.

Fireworks and explosive compounds; manufacture and sale thereof.

Sec. 764. No fireworks, detonating works, cartridge, powder train, percussion caps, collodion, nitrate of soda, nitrate of silver, ether, phosphorus, matches, or explosive compounds shall hereafter be manufactured, stored, or kept upon sale in the city, except at such places, in such manner, and in such quantities as shall be determined by the said commissioner in the exercise of his discretion, under a permit by him granted therefor, and subject to be revoked at any time by said commissioner. Fireworks, consisting of Chinese crackers, rockets, blue lights, candles, colored pots, lance wheels, and other works of brilliant-colored fires may be kept upon sale intervening the tenth day of June and the tenth day of July, in each year, by retail dealers, under such reasonable regulations as said commissioner may prescribe, under a permit issued therefor; and no quantity of the following-named chemicals, acids and combustible materials, greater than as hereinafter enumerated, shall be stored or kept in or upon any one building within the city, namely: Sulphur, 1,000 pounds; manufactured matches, 500 pounds; saltpetre, nitrate of soda, 500 pounds in the whole; nitrate of silver, collodion, ether, phosphorus, fifty pounds in the whole; aqua fortis, muriatic acid, nitric acid and sulphuric acid, not exceeding 1,000 pounds in the whole; tar, pitch, rosin, turpentine, 100 barrels in the whole, except the same shall be stored and kept in such building and manner as said commissioner may re-

quire, under a special permit by them issued therefor.

Petroleum and coal oils, etc.; sale thereof.

Sec. 765. No person shall have, keep on sale, or store in any place or building within the corporate limits of the city, any crude petroleum, coal or any similar oil, nor any of their products, either of which shall emit an inflammable vapor at a temperature below one hundred degrees of Fahrenheit, except under the following provisions: or any of their products may be stored in detached and properly ventilated warehouses, the outer walls of which shall be stone, brick, or iron, especially adapted for the purpose by having raised sills, at least two feet high, or the ground floor of which shall be at least two feet below the level of the street or adjoining yard, or so constructed as to actually prevent the overflow of such substances beyond the premises where the same may be kept stored; which said warehouses shall not be occupied in any part as a dwelling, and if less then fifty feet from any adjacent dwelling the same must be separated by a brick or stone wall, at least ten feet in height and sixteen inches thick, constructed in such manner as said commissioner may prescribe, but the same may be stored in such other manner as said commissioner may designate under a special permit issued therefor. No refined petroleum, kerosene, coal or similar oil, or earth or rock oil, or machinery oil, or any product thereof to be used for illuminating or heating purposes which shall emit an inflammable vapor at a temperature below one hundred degrees Fahrenheit, shall be kept upon sale or stored within the corporate limits of the city. All said articles shall be tested and their quality determined by sanitary surveyors authorized by said commissioner, using G. Tagliabue's instruments, or such other instruments as may be designated by said commissioner, the barrels or packages containing the same to be legibly stamped or marked with said inspector's official stamp or mark. No refined petroleum, kerosene, gasoline, naphtha, or benzene, benzole, camphene, or burning fluid, or products or compounds containing any of said substances, when temporarily placed above the cellar or basement of any building, and in barrels of not over forty-five gallons each, or in metallic vessels or tanks, shall exceed in the whole quantity the contents of fifty of said barrels; provided, however, that the whole quantity of said refined oils that may be so kept or stored over night shall not exceed the contents of ten of said barrels, unless stored in the manner provided for storing crude petroleum, and when stored in cellars or basements, surrounded by walls of brick or stone, and at least two feet below the level or grade of the sidewalk, street, or land adjacent, the whole quantity shall not exceed the contents of one hundred and fifty barrels, unless stored in warehouses specially adapted for that purpose, as required for the storage of crude petroleum under this section; provided, also, that no quantity of said oils greater than one barrel shall be stored or kept in any building occupied in any part thereof as a dwelling. No refined petroleum, kerosene, gasoline, naphtha, benzine, benzole, camphene, burning fluid or products or compounds containing any of said substances, shall be kept or stored on or above the first story or floor of any building, exceeding in the whole quantity the contents of five barrels, of forty gallons each. In no case shall any of the articles named in this section be allowed to remain on the sidewalk beyond the front line of any building, or in or upon the streets, docks, piers, bulkheads, slips, highways or public places a longer time than is actually necessary for the removal or loading of the same, and said commissioner may establish and enforce general regulations and issue such orders and special directions relative to the handling, lightering, carting, loading and transportation of the several articles named under this section as in his discretion shall be deemed necessary for the public protection, and said commissioner may issue special permits authorizing the keeping of any of the articles enumerated under this section in buildings, tanks or structures fireproof throughout, in such quantities, in such manner, and subject to such regulations as shall tend to secure the same against danger.

Id. Continued.

Sec. 766. No person shall sell at retail or give away any kerosene, or other product of petroleum, or any similar oil to be used for heating or illuminating purposes, without first obtaining a license therefor from the fire commissioner, under such rules and regulations as he may prescribe, which license shall be for the term of one year and shall not be transferable, and for every such license and for every renewal of the same the said commissioner shall demand and receive the sum of ten dollars. Said licenses shall be posted in a conspicuous place in the store of the person or persons to whom the same is issued, and may be revoked for cause by said commissioner. Any person who shall sell any of the compounds above mentioned in this or the last section, without first obtaining a license therefor, shall forfeit and pay the sum of twenty-five dollars. But licenses for this purpose may be granted in the boroughs of Queens and Richmond without the payment of the license fee in this section prescribed.

Criminal liability if death results from violation of foregoing rules.

Sec. 767. In case any person is burned by the explosion of any compound, the sale of which is prohibited by any section of this title, or which has not been subjected to sanitary survey, or licensed as therein provided, and death ensues thereform, the person found guilty of selling the same shall be deemed guilty of a felony, and, upon conviction, shall be punished by a fine of not less than one thousand dollars, nor more than five thousand dollars, or by imprisonment in the state prison for a term not less than one year nor more than five years; and in case of a bodily injury the party injured may maintain an action for damages against the party violating the provisions of this title. Any dealer who shall present and deliver for sanitary survey a sample of oil different from, and which does not represent the quality of oil actually kept by him or her for sale, and not taken from the actual stock being offered for sale, and of the same quality therewith, shall forfeit and pay the sum of fifty dollars. If any fire insurance company, organized under the laws of this state, or any insurance company of any other state, or any foreign insurance company authorized to do the business of insurance in this state, shall indorse upon any policy issued by them the right or privilege to keep, deal in, give away, sell, or use any article or compound of a combustible or explosive character, the sale of which is made unlawful by any act of the legislature of this state, or shall cause or permit such indorsement to be made by others upon their policies of insurance, they shall for each and every such offense forfeit and pay a fine of five hundred dollars.

Fires and lights on vessels transporting petroleum.

Sec. 768. It shall be unlawful for the owner, or for any of the officers, employes, or crew of any ship, vessel, canal boat, barge, lighter, boat or other craft lying at or within one hundred and fifty feet of any warehouse, yard, shed, dock, pier, bulkhead, wharf, or other place within the city of New York, at, in, or on which petroleum oil, or any of its products, is stored, or kept for export, or in quantities exceeding ten thousand gallons; or, for any other person or persons, to bring, keep, have, or use, or suffer or permit to be brought, kept, had, or used on board of any such ship, vessel, canal boat, barge, lighter, boat or other craft, or at, in, or on any such warehouse, shed, yard, dock, pier, bulkhead, wharf, or other place, any lighted match, or lighted cigar, cigarette, or pipe, or any fire or light of any kind, without, or otherwise than in strict conformity with the written permission of the owner, lessee or superintendent of such warehouse, shed, yard, dock, pier, bulkhead, wharf, or other place, specifying the fire or light to be kept, had, or used, the particular purpose for, and the place or spot at which the same may be so kept, had, or used, and the particular manner of keeping, having, or using the same. This section shall not apply to steam tugs while transacting their ordinary business, nor to steam fire engines engaged in extinguishing fires. Every violation of this section shall be a misdemeanor, triable before the court of special sessions.

Storage of certain chemicals regulated.

Sec. 769. Except upon the approval of the fire commissioner, no quantity of the following named chemicals and combustible materials greater than is hereinafter enumerated shall be stored or kept in or upon any one building within the city, namely: Hemp, or flax, unbaled, two thousand pounds in the whole; varnish, rosin, twenty barrels in the whole; alcohol, pure spirits, camphene, burning fluid, five barrels in the whole; unslacked lime, ten barrels; vitriol, five carboys in the whole; loose wood shavings, one hundred pounds; except the same shall be stored and kept upon an open space of ground, surrounded by a wall constructed entirely of fire proof materials, at least twelve feet high and twelve inches thick; or within a fire proof building remote or distant at least fifty feet from any adjacent building.

Id.: of certain vegetable products.

Sec. 770. No quantity of cotton, hay, straw, flax, hemp, husks, rushes, oakum, rags, seaweed, jute or other vegetable fiber when pressed or baled, greater than twenty tons in the whole, shall be stored or kept in any building within the city of New York, unless kept in a building fireproof throughout, or upon an open space of ground surrounded by a wall constructed entirely of fireproof materials, at least twelve feet high and twelve inches thick, or within a fireproof building, remote or distant at least fifty feet from any adjacent building, or in a building approved by the New York board of underwriters or the fire commissioner, and of which approval a certificate shall have been issued by said board or commissioner, and shall not have been revoked; and none of the articles enumerated in this section, when loose or not baled, shall be kept as aforesaid in quantity exceeding one thousand pounds in the whole; excepting in a private stable, in which may be kept such loose hay and straw in quantity not exceeding twenty-five hundred pounds in the whole, except upon the approval of the fire commissioner. No person shall have, put or keep any hay or straw uncovered in any stack or pile, or in any other way exposed, within one hundred yards of any building in said city, or shall have, put or keep within said city any hay, straw, hemp, flax, shav-

ings or rushes in any building not built of stone, or brick, or iron, or covered with tile or slate, or other fireproof material, which is or shall be within ten feet of any dwelling house or chimney whatsoever, except upon like approval.

Right to enter buildings, etc., for purposes of examination.

Sec. 771. The commissioner and his officers or agents, under the direction of the commissioner, or either of them, are hereby empowered at any and all times to enter into and examine all buildings, dwelling houses, livery and other stables, hay boats or vessels and places where any merchandise, gunpowder, hemp, flax, tow, hay, rushes, firewood, boards, shingles, shavings or other combustible materials may be lodged, for the purpose of ascertaining all violations of any of the provisions of this title, and also the places where ashes may be deposited, and upon finding that any of them are defective or dangerous, or that a violation of this title exists therein, may deliver a written or printed notice, containing an extract from this title, of the provisions in reference thereto, and notice of any violation thereof, and notice to remove, amend or secure the same within a period to be fixed therein. And in case of neglect or refusal on the part of such occupant or of the possessor of such combustible materials, or any of them, so to remove, amend or secure the same within the time and in the manner directed by the said commissioner in such notice, the party offending shall forfeit and pay, in addition to any penalty otherwise imposed, the sum of twenty-five dolars, and the further sum of five dollars for every day's neglect to remove, amend or secure the same after being so notified. All the expenses of any removal, alteration or amendment as aforesaid, shall be paid in the first instance by the occupant, but shall be chargeable against the owner of such dwelling house or other building, and shall be deducted from the rent of the same, unless such expense be rendered necessary by the act or default of such occupant, or unless there be a special agreement to the contrary between the parties.

Information to be furnished by holders of permits.

Sec. 772. All persons or corporations who shall be required to have and obtain permits shall furnish such information as may be required, touching the condition of any building and the business therein proposed to be conducted, preliminary to obtaining such permits.

Fines and penalties.

Sec. 773. Any person, persons or corporations for the violation of or non compliance with any of the several provisions of the several sections of this title, when the penalty is not therein specially provided, shall severally forfeit and pay a fine or penalty in the sum of fifty dollars for each and every offense or shall forfeit and pay the penalties respectively imposed under any of said sections, and shall also be severally liable for any costs or expenses that may be incurred by any violation of, or non compliance with, any requirement under said sections, and shall also be severally liable for the payment of the further penalty of the sum of fifty dollars for any violation of, or non compliance with, any regulation, order or special direction issued by said commissioner, or for failure to attend and testify as required by any subpena issued, as authorized under this chapter. Said commissioner may, in his discretion, pay a portion of a fine or penalty when collected, not to exceed one-half thereof, to any person giving information of any such violation. All suits and proceedings authorized by this title or to recover any penalty for the violation of or failure to comply with any law or any rule, regulation, order or requirement of, or made pursuant to the provisions of any law, the enforcement of which is charged upon said department or any of the several bureaus thereof, shall be brought by and in the name of the fire commissioner of the city of New York, but no fees or costs shall be demanded of said department in any such suit or proceeding. Any person who shall wilfully violate or neglect or refuse to comply with any provision or requirement of this title or any regulation, order or special direction duly made thereunder, shall also be guilty of a misdemeanor.

TITLE 4.

FIRE MARSHALS AND INVESTIGATION OF ORIGIN OF FIRES.

Investigation of fires, etc.

Sec. 779. The fire commissioner is hereby authorized to appoint and remove a fire marshal for the boroughs of Manhattan, the Bronx and Richmond, and a fire marshal to be seated in Brooklyn and to exercise his powers within the boroughs of Brooklyn and Queens. Said fire marshals shall, within such boroughs, respectively, to which they may be assigned, have and possess all the powers heretofore conferred by law upon the fire marshal of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York. The salary of each of said fire marshals shall be $3.000 a year. The fire commissioner, himself, or by said marshals, is hereby authorized and empowered to investigate, examine and inquire into the origin, details and management of fires in the city, and also of any supposed cases of violations of any of the provisions of this chapter or of any of the several regulations, orders, or special directions issued by the fire commissioner for the purpose of the discovery of any delinquency in the non-performance of duty or violation of discipline on the part of any officer, agent or employee of said fire department, or any supposed cases of arson or incendiarism, which may be brought to his notive; and said fire commissioner in and about any examination, investigation or inquiry before him or his marshals, touching any matter or thing therewith connected, may subpena and compel the attendance of any person or persons, and the production of any books, papers, archives, or documents in his or their possession, or under his or their control, in the judgment of the fire commissioner connected with and necessary to such examination, investigation, or inquiry, before him or his marshals, at the time and place therein named; and for the purpose aforesaid the corporation counsel may, at any time, obtain to be issued subpenas out of the supreme court, tested under the name of a justice of said court, in like form and with like effect as though issued by said justice in any action pending in a court of record, and said subpena may be served, and proof of such service may be made, in the same manner as now by law provided for the service of subpenas out of said court; and upon proof of service and proof of non-compliance, failure to attend and testify on the part of any person or persons, as required by said subpena, or failure or refusal on the part of any person or persons to produce any such books, papers, archives, or documents, in his or their possession, or under his or their control, or a failure or refusal on his or their part to answer any question put to him or them, and pertinent thereto, upon any examination, inquiry or investigation as aforesaid, application may be made before any justice of said court, who shall, in case he shall decide such question pertinent and proper to be answered, thereupon cause to be arrested, and may punish as for a contempt of the orders of said court, the person or persons named in said subpena, and in such case the laws, rules and proceedings relating to punishment for contempts, and usual in said court, or before any justice thereof, shall be applicable thereto. Said commissioner and fire marshals, in conducting any examination or inquiry as aforesaid, are hereby authorized to administer any oath or affirmation in the matter, and any false swearing under said oath or affirmation thus administered shall be perjury, and punishable as such in such manner as now provided under the laws applicable thereto; and said examination or investigation may be continued and adjourned by the said commissioner or fire marshal conducting the same, from time to time, and at such time and place as shall be designated, and any person subpenaed as aforesaid shall attend and testify upon said adjourned day or days, and at the time and place designated, and of which they shall have been notified, as though the same had been named in said subpena, and with like effect as to any failure to appear and answer under the requirements therein contained; provided, that any testimony or evidence taken as aforesaid shall be for the information and instruction of said fire commissioner in the discharge of his duties, and in the prevention of future fires, and the protection of property, and shall be carefully kept in the archives and possession of said fire department, and shall in no manner be used in any criminal proceeding or action, but may be placed before any grand jury in said city of New York. Such investigations in relation to the subject matter hereinabove defined within the boroughs of Brooklyn and Queens, shall be carried on by the deputy commissioner and fire marshal seated in the borough of Brooklyn, under the direction of said fire commissioner.

Fire marshals may enter buildings to examine them.

Sec. 780. It shall be the duty of a marshal, or his officers and agents, when authorized by him in writing so to do, to enter into any building or premises within said city for the purpose of examining, or causing to be examined, the stoves and pipes thereto, ranges, furnaces and heating apparatus of every kind whatsover, including the chimneys, flues and pipes with which the same may be connected, engine rooms, boilers, ovens, kettles, and also all chemical apparatus or other things which in his opinion may be dangerous in causing or promoting fires, or dangerous to the firemen or occupants in case of fire; and upon finding any of them defective or dangerous, or in any manner exposed or liable to fire from any cause, he shall report the same to the commissioner, who may thereupon issue orders or special directions, either printed or written, directing the owner or occupant to alter, remove or remedy the same in such manner and within such reasonable time as may be necessary, and in respect thereto may authorize and direct the use of such materials and appliances as shall be deemed proper and necessary; and in case of neglect or refusal so to do within the time prescribed by such orders or directions, such fire marshal, under the direction of said commissioner, shall cause said alteration, removal or other necessary act or work to be done, and the expense thereof shall be charged to the party so offending, to be sued

for and recovered in the manner herein provided for the recovery of fines and penalties under this chapter.

Id. To trace the cause of fires; arrest of suspected persons.

Sec. 781. It shall be the duty of a fire marshal to examine into the cause, circumstances, and origin of fires occurring in said city, by which any building, vessels, vehicles, or any valuable personal property shall be accidentally or unlawfully burned, destroyed, lost or damaged, wholly or partially; and to especially inquire and examine whether the fire was the result of carelessness or the act of an incendiary. Such fire marshal shall take the testimony, on oath, of all persons supposed to be cognizant of any fact or to have means of knowledge in relation to the matters herein required to be examined and inquired into, and cause the same to be reduced to writing, verified and transmitted to the fire commissioner with his report in writing, embodying his opinion and conclusions in relation to the matter investigated. Such fire marshal shall report in writng to the fire department, to the police department, to the district attorney, to the New York board of fire underwriters, to the owners of property, or other persons interested in the subject matter of investigation, any facts and circumstances which he may have ascertained by such inquiries and investigations which shall, in his opinion, require attention from or by either of said departments, officers or persons; and it shall be the duty of such fire marshal, whenever he shall be of opinion that there is evidence sufficient to charge any person with the crime of arson, to cause such person to be arrested and charged with such offense, and furnish to the district attorney all the evidences of guilt, with the names of witnesses, and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case; and he shall specially report to the fire commissioner, as often as such commissioner shall require, his proceedings, and the progress made in all prosecutions for arson and the result of all cases which are finally disposed of.

Id.; May compel attendance of witnesses.

Sec. 782. A fire marshal shall have power to issue a notice in the nature of a subpena, in such form, and subscribed in such manner, as the fire commissioner shall prescribe, to compel the attendance of any person as a witness before him, to testify in relation to any matter which is, by the provisions of this title, a subject of inquiry and investigation by the said marshal. The said marshal shall be, and is hereby authorized to administer and verify oaths and affirmations to persons appearing as witnesses before him; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punishable as such. Upon the presentation of satisfactory proof of due service of any such notice in the nature of a subpena, upon any such witness, and of a failure by such witness to obey the same, it shall be the duty of the fire commissioner to make an order that the said witness be arrested and brought before said marshal, to testify what such witness may know in relation to the subject matter of inquiry. Such order may be executed by any member of the police force, by arresting and bringing such witness before the said marshal, but such witness shall not be detained longer than is necessary to take such testimony. The fire marshals shall have authority at all times of the day or night, in performance of the duties imposed by the provisions of this title, to enter upon and examine any building or premises, when any fire shall have occurred, and the buildings and premises adjoining and near to that in which the fire occurred.

Id.: Commissioner may supervise investigations by.

Sec. 783. It shall be the duty of the fire commissioner to supervise and direct, whenever he shall be of opinion that the public interest will be subserved thereby, the investigations, examinations, and proceedings of said marshals, and make all needful and proper rules and regulations in relation to the duties of the office, and the manner of performing the same.

TITLE 5.

RELIEF FUND AND PENSIONS.

Of what fund consists: officers and investment.

Sec. 789. The New York fire department relief fund shall consist of:

1. The capital, interest, income, dividends, cash deposits, securities and credits formerly or now belonging to said funds in any of the municipal and public corporations, or parts thereof, hereby consolidated into the city of New York.

2. All forfeitures and fines imposed by the fire commissioner, from time to time, upon any member or members of the fire department force by way of discipline.

3. All rewards in money, fees, gifts, testimonials and emoluments that may be paid or given for account of extraordinary services by any member of the fire department force, except such as have been or shall be allowed by the fire commissioner, to be retained by said member or members, and such as have been or shall be given to endow a medal or other permanent or competitive reward.

4. All proceeds of suits for penalties, under title three of this chapter, and all license fees payable under the same.

5. All proceeds of sales of condemned horses and other personal property in use by said department.

6. All moneys, pay, compensation or salary, or any part thereof forfeited, deducted or withheld from any member or members of the fire department force, for or on account of absence from duty, to be paid monthly to the treasurer of the said relief fund, by the controller of the city of New York, and the fire commissioner is authorized and empowered, in his discretion, to deduct and withhold pay, salary or compensation from any member or members of said force, for or on account of absence from duty, except when such absence shall be caused by sickness or disability, for which leave of absence shall have been granted, in accordance with the rules of said department.

7. Ten percentum annually of all excise moneys or license fees belonging to the city of New York, as constituted by this act, and derived or received by any commissioner of excise or public officer, from the granting of licenses, or permission to sell strong or spirituous liquors, ale, wine or beer, in the city of New York, under the provisions of any law of this state authorizing the granting of any such licenses or permission; the said ten per centum thereof to be paid quarterly by the controller of said city, who is hereby authorized and required to pay the same to the treasurer of the said relief fund, for the benefit thereof, without any action of authority of or from the board of estimate and apportionment, such sum to amount in each and every year to not more than $150,000. The commissioner of the fire department of the city of New York is hereby constituted and declared to be the trustee of the New York fire department relief fund, shall receive all moneys applicable to the same and deposit the same, as such treasurer, to the credit of such relief fund, in banks or trust companies to be selected by him, and continue to receive and deposit the funds applicable to the same, as received, to the credit of said fund, or to invest the same in bond and mortgage on improved property worth twice the amount loaned, or in public stocks, as said trustee may deem most advantageous for the object of such fund, and said trustee is empowered to make all necessary contracts, and to take all necessary remedies in the premises. The treasurer of said fund shall give a bond, with one or more sureties, in the sum of $20,000, for the faithful performance of his duties, said bond to be approved by the controller and filed in his office. And the said trustee for and on behalf of the uses and purposes of said fund, shall be entitled to receive, and there shall be paid to him all duties, taxes, allowances, fines, penalties and fees to which the fire department of the city of New York as at any time heretofore established, has been or is now entitled, except as in this act otherwise specially provided, and the said trustee may take, by gift, grant, devise or bequest, any money, real or personal property, right of property for other valuable thing, the annual income of which shall not exceed $30,000 in the whole; and in any year, when the condition of the said relief fund shall render it, in the judgment of the said trustee, necessary, he may receive from the board of estimate and apportionment of the city of New York, a sum not exceeding $10,000, to be included in the annual estimate of the fire commissioner and drawn and collected by him in like manner as the other moneys applicable to his expenses; and such amounts so obtained shall, in like manner, be paid to and applied by the treasurer to the uses of said fund, by deposit or investment as hereinbefore provided, as the trustee thereof shall direct; provided, that the sum of $200,000, which may be received and accumulated under the provisions of this title, shall be reserved and retained as a permanent fund, the annual income of which may be made available for the uses and purposes of said relief fund.

Retiring members of fire department; pensions, etc.

Sec. 790. The fire commissioner shall have the power to retire from all service in the said fire department, or to relieve from service at fires, any officer or member of the uniformed force of said department, who may, upon an examination by the medical officers, ordered by the said fire commissioner, be found to be disqualified, physically or mentally, for the performance of his duties; and the said officer or member so retired from service shall receive from said relief fund an annual allowance as pension in case of total disqualification for service, or as compensation for limited service in case of partial disability; in every case, the said fire commissioner is to determine the circumstances thereof, and said pension or allowance so allowed is to be in lieu of any salary received by such officer or member at the date of his being so relieved or retired from fire duty in said department, and the said department shall not be held liable for the payment of any claim or demand for services thereafter rendered, and the amount of such pension or allowance shall be determined upon the following conditions: In case of total permanent disability, at any time, caused in or induced by the actual performance of the duties of his position, or which may occur after ten years' active and continuous service in the said fire department, the amount of annual pension to be allowed shall be one-half of the annal compensatin allowed

such officer or member as salary at the date of his retirement from the service, or such less sum in proportion to the number of officers and members so retired as the condition of the fund will warrant. But should permanent disability caused by injuries received in the active discharge of his duties disqualify him only from performing active duty in the uniformed force, he shall be employed at the salary received when such disability occurred in some position in the department not requiring active service as a fireman. In case of total permanent disability not caused in or induced by the actual performance of the duties of his position, or which shall have occurred before the expiration of ten years' active and continuous service in the said fire department, the amount of annual pension to be allowed shall be one-third of the annual compensation allowed such officer or member as salary at the date of his retirement from the service, or in proportion to the number of officers and members so retired, as the condition of the fund will warrant. In case of partial permanent disability, caused in or induced by the actual performance of the duties of his position, or which may occur after ten years' active and continuous service in the said fire department, the officer or member so disabled shall be relieved from active service at fires, but shall remain a member of the uniformed force, subject to the rules governing said force, and to the performance of such light duties as the medical officer of the said fire department may certify him to be qualified to perform; and the annual allowance to be paid such member or officer shall be one-half of the annual compensation allowed as salary at the date of his being so relieved, or such less sum, in proportion to the number of officers and members so retired, as the condition of the fund will warrant. In case of partial permanent disability, not caused or induced by the actual performance of the duties of his position, or which may occur before ten years' active and continuous service in the said fire department, the officer or member so disabled shall be relieved from active service at fires, but shall remain a member of the uniformed force, subject to the rules governing said force and to the performance of such light duties as the medical officer of said department may certify him to be qualified to perform, and the annual allowance to be paid such officer or member shall not exceed one-third of the annual compensation allowed as salary at the date of his being so relieved, or such less sum as the fire commissioner may in his discretion determine or as the condition of the fund will warrant. Any officer or member of the uniformed force of the said fire department of the city of New York who has or shall have performed duty therein for a period of twenty years or upward shall, upon his own application in writing or upon a certificate of the board of medical officers showing that such member is permanently disabled, physically or mentally, so as to be unfit for duty, be retired and dismissed from said force and service and placed on the roll of the relief or pension fund, and awarded and granted, to be paid from the said relief or pension fund, an annual pension during his lifetime of a sum not less than one-half the full salary or compensation of such member so retired. The pensions granted under this section shall be for the natural life of the pensioner, and shall not be revoked, repealed or diminished; provided, however, that no member of either of the uniformed fire departments by this act consolidated having a right to retire on pension at the time this act takes effect shall be deprived of such right by reason of his remaining a member of said fire department, or of anything in this act contained.

Trustee of relief fund; when to pay pensions.

Sec. 791. The trustee of the relief fund is authorized and empowered from time to time, to pay a pension out of the said relief fund to the widow, child or children or dependent parent or parents of any deceased officer or member of the uniformed force of the said fire department, if the death of such officer or member occur during his service in the said uniformed force, or after he was retired from service in said uniformed force; provided that the amount of any such pension to be paid by the said trustee, to each of the several representatives of such officer or member as aforesaid (in case there shall be more than one), may be, from time to time, determined by the said trustee according to the circumstances of each case, and that such pension may be ordered to cease and terminate at any time if, in the opinion of the trustee, the circumstances should warrant the same; and further provided that not more than $300 shall be paid in any one year to the representative or representatives of such officer or member, and that no part of such sum shall be paid to any such widow who shall marry again after her remarriage, or to any child after it shall have reached the age of 16 years. In case any officer or member of the uniformed force of said department is hereafter killed while actually engaged in the performance of duty, or if death ensues as the immediate effect of injuries so received the trustee of said relief fund shall have the power to award to the widow of such officer or member an annual allowance as a pension, to be paid out of the said relief fund, in amount not to exceed one-half of the salary or compensation of such officer or member at the date of his decease. If such officer or member dying leaves no widow surviving him, but leaves a child or children, under the age of 18 years, or dependent parent or parents, the said trustee shall have the power to award to the legal guardian of such child or children, or dependent parent or parents, for its or their support and maintenance, an annual allowance out of said relief fund, in amount not to exceed one-half of the salary or allowance of such officer or member at the date of the decease. The amount of such annual allowance to any such widow shall not exceed the sum of $1,000, and shall cease upon her death or remarriage, or if she shall have been guilty of conduct which, in the opinion of said trustee, renders further payment inexpedient. The amount of such annual allowance to any one such child, or dependent parent or parents, shall not exceed the sum of $500, and in every case such payment shall cease upon the death or marriage of such child, or upon its reaching the age of 18 years. If such payment to the widow of any such officer or member shall cease by reason of her death, remarriage or misconduct, the said trustee shall have power to make payments to the child or children or dependent parent or parents of such officer or member, if any, as though he had died without leaving a widow surviving him. The widows and orphans and retired members of the Brooklyn fire department, or of any other fire department of any of the municipal and public corporations or parts thereof hereby consolidated, shall be entitled to receive from the fire department pension fund herein created the amounts which they would respectively have been legally entitled to receive on the 31st day of December, 1897, from any fire department pension or relief fund heretofore existing in any of said municipal corporations or parts thereof.

Life insurance fund.

Sec. 792. The life insurance fund shall consist of all moneys that are now to the credit of the New York fire department life insurance fund and the Brooklyn fire department widows' and orphans' relief fund; and all persons who have paid into the said respective funds, and who shall continue to pay into the life insurance fund, shall receive the benefits of said fund as provided in this chapter. There shall be deducted from the monthly pay of each officer and fireman of said department, and from the monthly pension of retired members of said department, and from the pay of such other employes of said department as shall heretofore have availed themselves of this provision, the monthly sum of one dollar, which shall be received and held by the treasurer of the relief fund, in the like manner as the other moneys herein provided to be paid to him, and which shall be known as the New York fire department life insurance fund; and in case of the death of any member or employe of said department in the service thereof, who has availed himself of this provision, or of any pensioned or retired member of said department, and so contributing, there shall be paid to the widow, or if there be no widow, then to the legal representatives of such deceased member, or employe, or pensioned and retired member, the sum of one thousand dollars out of the moneys so assessed; and in case, by reason of the number of deaths, the aggregate amount of money so provided to be assessed and collected should prove inadequate to make such payment, then the assessment may, in the discretion of said trustee, be increased to not exceeding the sum of two dollars in each month's pay or each month's pension of pensioned and retired members of said department. None but members of the uniformed force shall hereafter be eligible to membership in this fund. If in any year, owing to an excessive mortality in the uniformed force, the condition of said life insurance fund shall render it, in the judgment of the said trustee, necessary, a sum not exceeding five thousand dollars may be transferred and paid over from the said relief to the said life insurance fund for the use and purpose of said life insurance fund.

TITLE 6.

TAX UPON FOREIGN INSURANCE COMPANIES.

Corporations liable to taxation.

Sec. 798. Any corporation or association created by or organized under the laws of any government other than the states of this Union, and having assets, funds or capital, not less in amount than one hundred and fifty thousand dollars, invested in this state, shall be liable to taxation upon such assets, funds or invested capital, as the same is levied or assessed yearly by law, which tax shall be paid as follows: Such an amount thereof as would be equal to two per cent. upon its gross premiums received for insurance upon property, in the city of New York, shall, except as otherwise in this title provided, be paid annually to the fire commissioner as treasurer of the fire department, and the residue of said tax requisite to make up the full amount of taxation upon its capital shall be paid to the city of New York, as in the case of ordinary taxation, and the payments so made as aforesaid shall exempt such corporation or association making the same from any and all further taxation upon its

premiums, capital or assets, and whenever such capital shall be reduced below said sum of one hundred and fifty thousand dollars, or withdrawn entirely, then, and in either event, such corporation or association shall be liable to pay the tax upon its premiums as heretofore provided in this title.

Moneys paid to department by insurance companies, etc.

Sec. 799. There shall be paid to the fire commissioner as treasurer of the fire department, for the use and benefit of said fire department, on the first day of February, in each year, by every person who shall act in the city of New York, as agent for or on behalf of any individual or association of individuals, not incorporated by the laws of this state, to effect insurance against losses or injury by fire in the city of New York, although such individuals or association may be incorporated for that purpose by any other state or country, the sum of two dollars upon the hundred dollars, and at that rate upon the amount of all premiums which, during the year ending on the next preceding first day of September, shall have been received by such agent or person, or received by any other person for him, or shall have been agreed to be paid for any insurance against loss or injury by fire in the city effected, or agreed to be effected, or promised by him as such agent.

Account of premiums by city agent.

Sec. 800. Every person who shall act in the city as agent as aforesaid shall, on the 1st day of February in each year render to the fire commissioner as treasurer of the fire department a just and true account, verified by his oath, on all such premiums which, during the year ending on the first day of September preceding, shall have been received by him, or by any person for him, or which shall have been agreed to be paid for any such insurance effected, or agreed to be effected, or promised by him.

Undertaking.

Sec. 801. No person shall, as agent or otherwise, effect, or agree to effect, or procure to be effected, any insurance upon which the duty above mentioned is required to be paid, until he shall have executed and delivered to the said fire commissioner as treasurer, an undertaking, under seal, to the fire department, with such sureties as the said treasurer, on the first day of February, in each year, a just and true account, verified by his oath, of all such premiums, which, during the year ending on the first day of September preceding, shall have been received by him, or by any person for him, or which shall have been agreed to be paid for any such insurance effected, or agreed to be effected, or promised by him, and that he will annually, on the first day of February in each year, pay to the said fire commissioner as treasurer, two dollars upon every hundred dollars, and at that rate upon the amount of such premiums.

Id.; renewal of.

Sec. 802. Whenever, by reason of the failure of the sureties, or either of them, or for any other cause, an undertaking given under the last preceding section shall have or may be deemed insufficient by the said fire commissioner as treasurer to secure a return of the account and the payment of the duty aforesaid, or either of them, the said commissioner as treasurer, at his election, but not oftener than once in each year, may require such undertaking to be renewed.

Id.; penalty for not executing.

Sec. 803. Every person who shall effect, agree to effect, promise or procure any insurance mentioned in the preceding sections of this title, without having executed and delivered the undertaking hereinbefore required, shall for each offense forfeit $1,000, for the use of the said fire department; and every person who shall have been required by the fire commissioner as treasurer to renew his undertaking, pursuant to the last preceding section, who shall effect, agree to effect, promise or procure any such insurance, without having executed and delivered the renewed undertaking, shall for each offense forfeit $1,000, for the use of the said fire department.

Demand for accounts.

Sec. 804. It shall be lawful for the fire commissioner as treasurer of the fire department, on or after the first day of February, in each year, by written or printed demand, signed by him, to require from every person who shall act in the city as agent, as aforesaid, the account provided for in this title, and payment of the duty provided for; such demand may be delivered personally to such agent, or at his office or place of business to any person having charge thereof, or who shall, for ten days after such demand neglect to render the account or to pay the duty demanded, or either of them, shall forfeit $50, for the use of the said fire department; and he shall also forfeit for their use $25 in addition for every day that he shall so neglect after the expiration of said ten days, and such additonal penalty may be computed and recovered up to the time of any suit for the recovery thereof.

Place of business to be reported.

Sec. 805. Every person who shall act in the city as agent, as aforesaid, shall, on the first day of February in each year, or within ten days thereafter, and as often in each year as he shall change his place of business in the city, report in writing, under his proper signature, to the controller of this state, and also to the fire commissioner as treasurer of the said fire department, the street and the number thereof in the said city, of his place of business as such agent, designating in such report the individual or individuals and association or for any breach of the undertakings, or either of them, provided for associations for which he shall be such agent. And in the case of default in any of these particulars, such person shall forfeit for every offense the sum of $1,000, for the use of the said fire department.

Suits for violations.

Sec. 806. The duty provided to be paid by this title, the damages for any breach of the undertakings, or either of them, provided for therein, and the pecuniary penalties imposed therein, or any or either of them, may be sued for and recovered, with costs of suit, in any court of record within this state, by the fire commissioner, for the use of said department.

Arrest of defendant.

Sec. 807. The defendant in any action to be brought for the recovery of any penalty incurred, or any duty or sum of money payable under this title, may be arrested, if he is not a resident of this state, or is about to remove therefrom. An order for the arrest of the defendant must be obtained from a judge of the court in which the action is brought, or from a county judge. The order shall be made when it shall appear to the judge, by affidavit, that a sufficient cause of action exists under this title, and that the defendant is not a resident of this state, or is about to remove therefrom.

Tax on receipts of foreign fire insurance companies.

Sec. 808. The corporation known as "The Tustees of the Exempt Firemen's Benevolent Fund of the City of New York," shall be entitled to collect, and there shall be paid to it until the seventeenth day of January, nineteen hundred and seven, the percentage or tax on the receipts of the foreign fire insurance companies doing business in the city of New York, as heretofore constituted, as provided by this title, except as to business done by said foreign fire insurance companies in that part or portion of said city, known and designated as the Twenty-third and Twenty-fourth wards, and all returns and undertakings required by this title, except as to such business in the said Twenty-third and Twenty-fourth wards, shall, during such period, be made to the treasurer of the trustees of such corporation. The trustees of the Exempt Firemen's benevolent fund of the city of New York shall render to the fire commissioner of the city of New York and to the treasurer of the Firemen's association of the state of New York, quarterly, in each year, a sworn statement in detail of the amounts collected and received, and from whom and from what source, on account of said tax, during each quarter; and shall, at the same time, pay over to said fire commissioner, as treasurer, forty-five per centum of the amount so collected and received in each quarter year, for the use and benefit of the relief fund of the fire department of the city of New York and to the treasurer of the Firemen's association of the state of New York, ten per centum of the amount so collected and received, for the endowment, benefit and maintenance of the volunteer firemen's home, at Hudson, Columbia county, New York, and the moneys so received by the treasurer of such association shall be paid by him to the treasurer of the Volunteer Firemen's Home association, upon the order of the board of trustees thereof, as provided by the bylaws of the said home association; and the balance of said fund shall be applied to the uses and purposes of said corporation, as defined and provided by chapter fifteen of the laws of eighteen hundred and eighty-six. The said corporation may maintain in its corporate name any action or actions in any court of record of this state to recover the tax or percentage aforesaid during such period, and also to recover for the breach of any bond or undertaking, which has been given or may be given to it pursuant to the provisions of this title, or any penalty imposed thereby. The corporation known as "The Exempt Firemen's Benevolent Fund association of the Twenty-third ward of the city of New York (late town of Morrisania, in the county of Westchester), in the county of New York," shall be entitled to collect, and there shall be paid to it until the seventeenth day of January, nineteen hundred and seven, the percentage or tax on receipts of the foreign fire insurance companies in the Twenty-third and Twenty-fourth wards of the city of New York, as provided for by this title, and all returns for such business in said Twenty-third and Twenty-fourth wards shall, during such period, be made to the treasurer of said last named corporation. The said last named corporation shall, during said period, render to the fire commissioner of the city of New York, and to the treasurer of the Firemen's association of the state of New York, quarterly, in each year, a sworn statement in detail of the amounts collected and received

and from whom and from what source, on account of said tax, during each quarter, and shall at the same time pay over to said fire commissioner, as treasurer, forty-five per centum of the amount so collected and received in each quarter year for the use and benefit of the relief fund of the fire department of the city of New York, and to the treasurer of the Firemen's association of the state of New York ten per centum of the amount so collected and received, for the endowment, benefit and maintenance of the Volunteer Firemen's home at Hudson, Columbia county, New York, and the moneys so received by the treasurer of such association shall be paid by him to the treasurer of the Volunteer Firemen's Home association, upon the order of the board of trustees thereof, as provided by the bylaws of said home association, and the balance of the moneys so collected and received by it during such period shall be applied to the uses and purposes of said corporation, as defined and provided by chapter four hundred and ninety-eight of the laws of eighteen hundred and seventy-five. The said last named corporation may maintain in its corporate name any action or actions in any court of record of the state of New York, to recover the tax on percentage aforesaid upon such business done in said Twenty-third and Twenty-fourth wards during such period, and also to recover for the breach of bond or undertaking which has been or may be given to it pursuant to the provisions of this title, or any penalty imposed thereby. From and after the seventeenth day of January, nineteen hundred and seven, the said percentage of tax shall be collected by the treasurer of the fire department of the city of New York, as provided in this title, and thereafter until the seventeenth day of January, nineteen hundred and seventeen, the treasurer of said fire department shall render to the said corporation known as the "Trustees of the Exempt Firemen's Benevolent Fund of the City of New York," and to the treasurer of the Firemen's association of the state of New York, quarterly, in each year, a sworn statement in detail of the amounts collected and received, and from whom and from what source, on account of said tax, during each quarter, excepting the amounts collected in that portion of said city, known as the Twenty-third and Twenty-fourth wards, and shall, at the same time, pay over to the said treasurer of the corporation known as "The Trustees of the Exempt Firemen's Benevolent Fund of the City of New York," forty-five per centum of the amount so received in each quarter year, for the use and benefit of the said benevolent fund, and to the treasurer of the Firemen's association of the state of New York ten per centum of the amount so received in each quarter year, for the endowment and maintenance of the said Volunteer Firemen's home; and the money so received by the said treasurer shall be paid over to the treasurer of said Volunteer Firemen's home in the manner aforesaid. The said treasurer of the fire department shall appropriate and apply the remainder of the moneys so to be collected and received to the uses and purposes of the relief fund of said department. Until the seventeenth day of January, nineteen hundred and seventeen, the treasurer of said fire department shall render to the treasurer of the corporation known as the trustees of "The Exempt Firemen's Benevolent Fund Association of the Twenty-third and Twenty-fourth Wards of the City of New York (late town of Morrisania, in the county of Westchester), in the County of New York," and to the treasurer of the Firemen's association of the state of New York, quarterly, in each year, a sworn statement in detail of the amounts collected and received, and from whom and from what source an account of said tax, during each quarter, in that portion of the said city known as the Twenty-third and Twenty-fourth wards, and shall, at the same time, pay over to the said treasurer of the said corporation known as the trustees of "The Exempt Firemen's Benevolent Fund Association of the Twenty-third Ward of the City of New York (late town of Morrisania, in the county of Westchester), in the County of New York," forty-five per centum of the amount so received in each quarter year, for the use and benefit of the said corporation, and to the treasurer of the said Firemen's association of the state of New York, 10 per centum of the amount so received in each quarter year, for the endowment and maintenance of said volunteer firemen's home, and the moneys so received by said treasurer shall be paid over to the treasurer of said volunteer firemen's home in the manner aforesaid. The said treasurer of the fire department shall appropriate and apply the remainder of the moneys so to be collected and received by it to the uses and purposes of the relief fund of said department. The said corporations known respectively as the trustees of the Exempt Firemen's Benevolent Fund association of the city of New York, and the Exempt Firemen's Benevolent Fund association of the Twenty-third ward of the city of New York (late town of Morrisania, in the county of Westchester), in the county of New York, shall each make an annual report to the controller of the state of New York, on or before the first day in January in each year, duly verified by the president and treasurer thereof of the amount of money received during the year, and from whom and from what source received, and giving in detail the names and residences of all persons to whom and for what purposes any moneys were paid, with the amount paid to each recipient, and of the amount of money on hand, and how invested. No trustee, officer or agent of either of said corporations shall grant or give to any beneficiary or other person any greater sum than shall have been determined by the board of trustees of such corporation by a vote of a majority of such trustees, after due investigations of the circumstances of each case, and all payments of pensions or donations shall be made by the treasurer upon such order of the trustees of the corporation, and for all such payments the treasurer shall take receipts from the beneficiaries receiving the same, which receipts shall be filed with his report to the trustees of the corporation.

Tax on receipts of foreign fire insurance companies doing business in the borough of Brooklyn.

Sec. 809. There shall be paid to the fire commissioner, until the seventeenth day of January in the year nineteen hundred and seventeen, the percentage or tax upon the receipts of foreign fire insurance companies doing business in the borough of Brooklyn, and said commissioner shall cause the moneys so paid to him to be paid out and disposed of as follows:

1. To the New York fire department relief fund 45 per centum.
2. To the treasurer of the Firemen's association of the state of New York, who shall pay over the same to the treasurer of the Volunteer Firemen's home at Hudson, N. Y., 10 per centum.
3. To the treasurer of the widows and orphans fund of the late volunteer fire department of the western district of the late City of Brooklyn, 20 per centum.
4. To the treasurer of the widows and orphans fund of the late volunteer fire department of the eastern district of the late City of Brooklyn, 13 1-3 per centum.
5. To the treasurer of the widows and orphans fund of the late volunteer fire department of the former town of New Lots, 3 1-3 per centum.
6. To the treasurer of the widows and orphans fund of the late volunteer fire department of the former town of Flatbush, 2 1-3 per centum.
7. To the treasurer of the widows and orphans fund of the late volunteer fire department of the former town of Gravesend, 2 1-3 per centum.
8. To the treasurer of the widows and orphans fund of the late volnnteer fire department of the former town of New Utrecht, 2 per centum.
9. To the treasurer of the widows and orphans fund of the volunteer fire department of the former town of Flatlands, 1 2-3 per centum.

The fire commissioner shall quarterly in each year render to each of the foregoing associations a sworn statement in detail of the amounts collected and received by him as aforesaid, and from whom and from what source on account of said tax during each quarter.

And the custodian or trustees receiving moneys under the provisions of this act in the borough of Brooklyn shall annually make and render to the fire commissioner in the month of January a sworn statement as to the expenditure of said funds, and upon failure so to do the fire commissioner may withhold the said percentage and it shall be paid over to the New York fire department relief fund, and any use of said percentage for purposes other than provided by law shall be a misdemeanor and be punishable as such.

Sec. 810. The corporation known as the Veteran Firemen's Association of the North Shore Fire Department of Staten Island, in the borough of Richmond, shall be entitled to collect a percentage or tax of 2 per cent. on receipts of foreign fire insurance companies, located and doing business in the borough of Richmond. The said association shall be subject to the same laws and possess the same privileges as the Exempt Firemen's Benevolent Fund association of the Twenty-third ward of the city of New York (late town of Morrisania, county of Westchester), for the term of twenty years, beginning with the establishment of a paid fire department over said borough.

CHAPTER XVI.

DOCKS, PIERS, HARBOR, PORT AND WATERS.

Title 1. Department of docks and ferries.
2. Piers, slips and wharfage.
3. General provisions.

TITLE 1.

DEPARTMENT OF DOCKS AND FERRIES.

Board of docks, commissioners, appointment, term of office, president and salaries.

Sec. 816. The head of the department of docks and ferries shall be called the board of docks. The board of docks shall consist of three persons, to be known as commissioners of docks. They shall be residents of the city of New York and shall be appointed by the mayor, and hold their respective offices as

provided in chapter IV of this act. Said commissioners shall elect one of their number president of said board. The salary of the president shall be six thousand dollars a year, and the salary of each of the other two commissioners shall be five thousand dollars a year.

Extension of jurisdiction to new territory.

Sec. 817. All the powers and duties heretofore vested in and devolved upon the department of docks, of the mayor, aldermen and commonalty of the city of New York, are devolved upon and vested in the department of docks and ferries hereby created, and in addition thereto the powers and duties of said department are hereby extended so as to include all the water front, wharf property, lands under water, wharves, piers, bulkheads and structures thereon situate, within the city of Brooklyn; the county of Richmond and that portion of Queens county by this act consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York; and the said board of docks shall have the same powers, subject to the approval of the commissioners of the sinking fund, to adopt and execute a plan or plans for the water front of the city of New York, as constituted by this act, and to fix and establish the line of solid filling, bulkheads and pierhead lines, the distances between piers, methods and character of construction of wharves and piers within the entire territory of the city of New York, as constituted by this act, that the said department of docks possessed at the time this act takes effect within the territory of the city of New York, as heretofore known and bounded.

Jurisdiction, powers and duties.

Sec. 818. The board of docks shall have exclusive charge and control, subject in the particulars hereinafter mentioned to the commissioners of the sinking fund, of the wharf property belonging to the corporation of the city of New York, as constituted by this act, including all the wharves, piers, bulkheads and structures thereon, and waters adjacent thereto, and all the slips, basins, docks, waterfronts, land under water and structures thereon, and the appurtenances, easements, uses, reversions and rights belonging thereto which are now owned or possessed by the said corporation, or to which said corporation is, or may become entitled, or which said corporation may acquire under the provisions hereof, or otherwise; and said board shall have exclusive charge and control of the repairing, building, rebuilding, maintaining, altering, strengthening, leasing and protecting said property, and every part thereof, and of all the cleaning, dredging and deepening necessary in and about the same. Said board is also hereby invested, except as otherwise expressly stated in this act, with the exclusive government and regulation of all wharf property, wharves, piers, bulkheads and structures thereon, and waters adjacent thereto, and all the basins, slips and docks, with the land under water in said city not owned by said corporation. The board of docks shall not have power to change the exterior line of piers and bulkheads, established by law.

The board of docks shall also have exclusive charge and control, subject in the particulars hereinafter mentioned to the commissioners of the sinking fund, of all ferries and ferry property belonging to the corporation of the city of New York, as hereby constituted.

Plans for water fronts.

Sec. 819. The plan or plans for the whole or any part of the water front of the city of New York, as constituted by this act, including the water front on the westerly side of the Harlem river from the easterly line of the Third avenue where said line strikes said river along the water front from said line to the northerly side of Eighty-sixth street on the East river determined upon by the department of docks, of the city of New York, as hertofore known and bounded, adopted and certified to by the commissioners of the sinking fund, and filed in the office of said department of docks, in accordance with the provisions of the third subdivision of section ninety-nine of chapter one hundred and thirty-seven of the laws of eighteen hundred and seventy as amended by section six of chapter five hundred and seventy-four of the laws of eighteen hundred and sevnty-one, and such plan or plans as may be determined upon pursuant to section 817 of this act, by the board of docks created by this act, adopted and certified to by the commissioners of the sinking fund and filed, or that may be filed in the office of said board of docks shall be and continue to be the sole plan or plans, according to which any wharf, pier, bulkhead, basin, dock, slip or any wharf structure or superstructure shall be laid out or constructed within the territory or district embraced, or that may hereafter be embraced in and specified upon said plan or plans, and shall be the sole plan or plans and authority for solid filling in the waters surrounding the city of New York, and on said Harlem river, and for extending piers into said waters and erecting bulkheads around said city, and on the westerly side of the Harlem river, and all other provisions of law regulating solid filling and pier and bulkhead lines in said waters, are to be deemed to be repealed whenever said plan or plans is or are inconsistent with such provisions of law and all laws giving any power or authority as to said water front in the territory embraced in this section, to any other department of the city of New York, as heretofore known and bounded, or to any department of any municipal or public corporation which, or part of which, is consolidated by this act with the mayor, aldermen and commonalty of the city of New York, are hereby repealed. No wharf, pier, bulkhead, basin, dock, slip, exterior street or any wharf, structure or superstructure shall be laid out, built or rebuilt, within such territory or district except in accordance with such plan or plans, provided that said board of docks, with the consent and approval of the commissioners of the sinking fund, may, from time to time, change the width or location of the piers laid down on said plan or plans; and provided, also, that said board of docks may build, or rebuild, or license or permit the building or rebuilding, of temporary wharf structures, and said board may lease land covered with water belonging to the city of New York for the purpose thereof, such lease, license or permit to continue and remain at the will and pleasure of said board, or for a time not longer than until the wharves, piers, bulkheads, basins, docks, or slips to be built or constructed according to such plan or plans, shall in the judgment of said board, require and need to be built or constructed; and provided, further, that the board of docks with the consent and approval of the commissioners of the sinking fund may alter and extend the present pier head line, as now established on the Hudson river, between Battery place and Seventieth street, and establish a new pier head line between these points, and may authorize the construction of new piers out to said pier head line, and may extend those piers already built out to said line; and may build new piers or extend piers already built, out to such pier head lines as are now or may hereafter be established by the secretary of war under act of congress. The board of docks is hereby authorized and empowered, with the consent and approval of the commissioners of the sinking fund, to alter and amend the plans of the improvement of the water front determined upon by the department of docks, and approved by the commissioners of the sinking fund of the city and county of New York, in 1871, between the Battery and Grand street on the East river and between the Battery and West Sixty-second street on the North river. Whenever the plan so determined upon and adopted, or hereafter to be determined upon and adopted, shall include the widening of an exterior street or avenue, or the opening and construction of a new exterior street or exterior avenue, or the abandonment or closing of such street or avenue already in existence, the power to widen, open, construct, abandon or close the same shall exclusively reside with the said board of docks, which is hereby authorized to take such steps as may be necessary in that regard, and after the same shall have been so widened or opened, the right to maintain the widened portion of a street or avenue already opened, and such new street or avenue shall also reside with the said board of docks; but the street or avenue so widened to the extent of the part so widened, or such new street or avenue opened under this plan shall not be a public street, but shall be a marginal wharf, and shall be used in that regard in such manner from time to time as the board of docks shall, by resolution, determine. The board of docks shall have exclusive power to regulate the use of marginal streets so that the land and buildings upon all such marginal streets may be used to the best advantage in connection with the wharves and bulkheads; and the board of docks shall have the power to regulate, by license or by any other suitable means, the transfer of goods and merchandise upon, over or under all such marginal streets; except that the said board of docks shall not, under this section, have any power in respect to, or jurisdiction over, the public driveway authorized by and constructed under chapter 102 of the laws of 1893 and acts amendatory thereof.

Surveys of water front.

Sec. 820. The board of docks is authorized to cause to be made the necessary surveys, soundings, and other examinations of the water front of the city of New York, as constituted by this act, where the same has not already been determined, and to ascertain the capacities and requirements of said water front for adaptation to commercial and other uses.

Construction of piers and docks regulated.

Sec. 821. In executing the plan or plans mentioned in section 819 of this act, the board of docks shall proceed, according to said plan or plans, to lay out, establish and construct wharves, piers, bulkheads, basins, docks or slips in the territory or district embraced in such plan or plans, and in and upon or about the property owned by the city of New York, without interfering with the property or rights of any other person except so far as may be necessary to insure the safety and stability of the wharves, piers, bulkheads, basins or slips so to be constructed. And said board may commence and carry on such construction in sections of said territory or district from time to time, so as not to seriously incommode the commerce of said city. The work of said construction under such plan or plans shall, unless ordered to be otherwise performed by the affirmative vote of all the commissioners of docks, be performed as fol-

lows: The said board of docks shall prepare full and minute specifications for such work, and advertise for proposals for doing said work under said plan or plans, and according to such specifications; proposals therefor shall be signed by the bidders for the said work and be sent to the said board within the time specified in such advertisement, accompanied by a bond in the form set forth in said specifications, duly executed. The said board of docks shall open said proposals on a day to be specified in such advertisement, and shall examine them, and unless the said board shall deem it for the interest of the city to reject all bids, shall award the contract for said work to the lowest responsible bidder complying with such plan or plans and specifications; such contract shall be executed by the said board of docks on behalf of the city of New York, and shall always contain provisions as to the time of commencing and completing said work, and for the retention of at least one-fourth of its contract price, until the completion of said work, as security for its performance, and for the forfeiture of said contract for non-performance of the terms thereof. Said board of docks may, upon the forfeiture of any such contract, proceed to complete the work thereunder without contract or may readvertise for proposals to complete said work and award a new contract therefor in the same manner as provided herein for awarding the original contract; but no bidder under this section shall be entitled to a contract until his bid be approved and accepted by said board of docks, provided, however, that repairs may be done by days' work, and without contract, whenever in the judgment of the board of docks it is expedient so to do.

Purchase of wharf property for corporation; proceedings to acquire.

Sec. 822. The board of docks is authorized to acquire in the name and for the benefit of the corporation of the city of New York any and all wharf property in the city of New York, as constituted by this act, to which the corporation of the city of New York then has no right or title, and any rights, terms, easements and privileges pertaining to any wharf property in the city of New York, and not owned by said corporation; and said board of docks may acquire the same either by purchase or by process of law, as herein provided. Said board of docks may agree with the owners of any such property, rights, terms, easements or privileges, upon a price for the same, and shall certify such agreement to the commissioners of the sinking fund, and if the said commissioners approve of such agreement, said board of docks shall take from such owners, at such price, the necessary conveyances and covenants for vesting said property, rights, terms, easements or privileges in, and assuring the same to the city of New York forever, and said owner shall be paid such price from the city treasury as provided in this act. If the said board of docks shall deem it proper and expedient that the said corporation should acquire possession of such wharf property, rights, terms, easements or privileges, for which no price can be agreed upon between said board and the owner or owners thereof, the said board of docks may direct the corporation counsel of said city to take legal proceedings to acquire the same for the city, and the said corporation counsel shall take the same proceedings to acquire the same as are by law provided for the taking of private property in said city for public streets or places, and the provisions of law relating to the taking of private property for public streets or places in said city are hereby made applicable, as far as may be necessary, to the acquiring of the said property, rights, terms, easements and privileges, and the said board of docks is also empowered to acquire in like manner the title to such lands under water and uplands, within the city of New York, as constituted by this act, as shall seem to said board of docks necessary to be taken for the improvement of the water front.

The just compensation to which the owner of property taken under the foregoing provisions is entitled shall be ascertained and determined upon the following principles. If all of the property of such owner is taken, the compensation awarded shall be the fair and just value of the said property. If the property of the riparian proprietor has been built upon or improved, and if such buildings or improvements are upon a single tract contiguous to or adjoining lands under water, or which were originally under water, and used in connection therewith, and part only of such property is proposed to be taken, the fair and just value of the entire premises shall first be ascertained, and then there shall be ascertained the like value of the premises in the condition in which they will be after the part is taken, and the difference in value, be it more or less than the separate value of the part taken, shall constitute the measure of compensation.

Provided that said board of docks, with the approval of the commissioners of the sinking fund, hereby is empowered to agree, license and permit private owners of any bulkheads, piers or water rights, to make the necessary improvements upon their bulkheads, piers or water rights, so as to conform to the plan already adopted by the department of docks and approved by the commissioners of the sinking fund of the city of New York, as heretofore known and bounded, or to be hereafter adopted and approved, pursuant to this chapter, during the period which shall intervene prior to the extinguishment of such private ownerships by the city of New York, such improvements to be made by such owners under the supervision of the board of docks, or by the board of docks itself, as may be agreed upon, at the cost and expense of such private owners, in the first instance, and upon such reasonable terms as to reimbursing said private owners for such improvements and as to wharfage and other riparian rights thereon and therefrom, as may be agreed upon. All agreements and licenses or permits heretofore made or entered into between the mayor, aldermen and commonalty of the city of New York and any private owners, as to the making of like improvements upon their property, are hereby ratified, confirmed and made valid.

Acquirement of certain wharf property on North and East rivers.

Sec. 823. In all proceedings taken by the board of docks of the city of New York for the acquirement of wharf property, rights, terms, easements or privileges, or lands under water and uplands in the city of New York, if said wharf property or lands under water, or wharf property to which said rights, terms, easements or privileges are appurtenant, is, or are, situated between the southerly side of Bethune street and the northerly side of Gansevoort street, upon or adjacent to the North river in the city of New York, or between the southerly side of East Eighteenth street and the southerly side of East Twenty-first street, upon or adjacent to the East river, it shall not be necessary for the said board of docks to make any attempt to agree with the owners of any such property, rights, terms, easements, privileges, uplands or lands under water, upon a price for the same, before commencing the proceedings authorized by section 822 of this act.

In a proceeding brought for the acquirement of any such wharf property, rights, terms, easements, or privileges, or uplands, or lands under water situate, as in this section set forth, the title to the said wharf property, uplands and lands under water, rights, terms, easements, and privileges shall vest in the city of New York four months after the filing in the office of the clerk of the supreme court, in the first judicial district, of the oaths of the commissioners of estimate and assessment in said proceeding appointed, and all of the rights, title and interest of any and all of the owners or persons interested in the said wharf property, rights, terms, easements and privileges or lands under water, or uplands, shall cease and determine and be extinguished at such time. All the awards made in such proceeding for the value of property acquired or interests extinguished, shall draw interest from the time of the vesting of the title in the city of New York.

Acquirement of wharf property in which city has some interest.

Sec. 824. In all proceedings by the board of docks of the city of New York for the acquirement of the interests of any person or corporation who is an owner in common or a joint tenant with the city of New York of any wharf property, rights, terms, easements, or privileges, or lands under water and uplands, it shall not be necessary for the said board of docks to make any attempt to agree with said person or corporation who is a tenant in common or joint tenant as aforesaid with the city of New York upon a price for the same, before commencing the proceedings authorized by section 822 of this act.

In a proceeding brought for the acquirement of any such right, title or interest in or to any such wharf property, rights, terms, easements or privileges, or uplands, or lands under water, owned as in this section set forth, the title of the person or corporation who, or which is, the tenant in common or joint tenant with the city of New York to the said wharf property, uplands and lands under water, rights, terms, easements and privileges, shall vest in the city of New York four months after the filing in the office of the clerk of the supreme court, in the First judicial district, of the oaths of the commissioners of estimate and assessment in said proceeding appointed, and all of the rights, title and interest of, in and to the said owners, persons or corporations interested in said wharf property, rights, terms, easements, privileges or lands under water or uplands, shall cease, determine and be extinguished at such time. All the awards made in such proceeding for the value of property acquired or interest extinguished shall draw interest from the time of vesting of the title in the city of New York.

Wharfage and dockage charges. Leasing property. Oyster business; designation of water-front for.

Sec. 825. When any of the wharves, piers, bulkheads, slips, docks, and basins constructed under the provisions of this chapter shall be open to the public use, the board of docks shall subject to the provisions of law, regulate the charges for wharfage, cranage and dockage of all vessels admitted thereto, and may alter such charges from time to time as the public trade may authorize and the said board of docks deem proper; provided that the rates of wharfage on boats navigating the canals of the state shall not be increased beyond the rates in force on April eighteenth, one thousand eight hundred and seventy-one, ex-

cept as hereinafter specifically provided, and no restriction of the amount of wharf and slip room occupied by them shall be made; and said board of docks may appropriate any of such wharves, as the owners thereof may apply to have so designated or appropriated to the sole use of special kinds of commerce, or of steamboats, or of any other class or description of ships or vessels, and may restrain and prohibit any ship, steamboat, or any other vessel or water craft whatever from coming into, or lying, mooring, or anchoring at or within any such wharf, pier, or slip of said the city of New York, except such as may be so designated for their use, respectively. Said board of docks may, in the name of and for the benefit of the corporation of the city of New York lease any or all of such property, and any and all wharf property belonging to the city of New York, as constituted, by this act, for a term not exceeding ten years, and covenant for renewal or renewals at advanced rents of such leases for terms of ten years each, but not exceeding in the aggregate fifty years. The board of docks may set aside, designate and appropriate a suitable location on the waterfront in the city of New York, for the sole use of the oyster business. Such designation or appropriation shall be subject at any time to revocation by said board.

Ferries; leasing of.

Sec. 826. The board of docks shall have power and is authorized to lease in the name of and for the benefit of the city of New York in the manner provided by law, the franchise of any ferry or ferries belonging to said city for the highest marketable price or rental, at public auction or by sealed bids, and always after public advertisement and appraisal under the direction of said board but not for a term longer than ten years, nor for a renewal for a longer term than ten years. And said board shall also possess the power and is hereby authorized to lease, in like manner along with the franchise of a ferry or ferries belonging to said city, such wharf property, including wharves, piers, bulkheads and structures thereon and slips, docks and water fronts adjacent thereto, used or required for the purposes of such ferry or ferries, now owned or possessed, or which may hereafter be owned or acquired by said city or to which the said city is or may become entitled, or of which it may become possessed. But said board shall make no lease authorized by this section, unless the terms of said lease are approved by the commissioners of the sinking fund. The proceeds of said leasing shall on receipt thereof after paying all necessary charges be immediately paid to the credit of the sinking fund. But nothing in this section contained shall be held to apply to that portion of the East river which is, by law, exclusively set apart for the use of canal boats engaged in the transportation of freights in the Hudson river coming to tidewater from the canals of this state.

To establish rules for government; penalties.

Sec. 827. The board of docks shall establish and enforce all needful rules and regulations for the government and proper care of all the property placed in its charge, and under its control by the provisions of this chapter, relating thereto, and shall furnish a copy of such rules and regulations to all the owners and occupants of such property, and shall make all needful orders necessary to carry out the provisions of this chapter relating thereto into effect, and fix penalties for disobeying such rules, regulations, or orders, and shall publish such orders. The violation of or disobedience to any rule, regulation or order of said board of docks, shall be a misdemeanor, punishable by a fine not exceeding $500, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment, on complaint of such board of docks. The penalties aforesaid may be recovered by suit in the name of the city of New York, and such suit shall be prosecuted by the corporation counsel when directed by the board of docks, and no defendant in any such suit shall be permitted to plead ignorance of any such order, rule or regulation. All rents, fines and penalties, and all other money collected by said board or by its direction, shall belong to the treasury of said city, and be paid into the sinking fund for the redemption of the city debt. The board of docks shall hold stated meetings, at times to be specified in its by-laws, which said board shall prepare and may alter from time to time.

Offices and officers: duties and salaries

Sec. 828. The board of docks shall have power to furnish and supply offices, provided in accordance with law, for the transaction of the business of the department of docks and ferries. The board of docks shall appoint a secretary and other officers, clerks and agents to assist said board in the performance of its duties and the exercise of its powers; and also the necessary employees for the work of construction, repairs and maintenance; and shall fix the compensation of all persons so appointed. But the annual expenses of said department for rent, furniture, supplies and compensation of secretary and subordinate officers, clerks and agents shall not exceed in the aggregate the sum of one hundred thousand dollars, except with the consent of the commissioners of the sinking fund. The president of the board of docks shall be elected annually by the members thereof, and shall preside at all meetings of said board, and in case of his absence a temporary president may be elected by the board to preside. Any member may resign his office by written resignation sent to the mayor. If any member of said board of docks shall cease to reside in the city of New York, as constituted by this act, his office as a member of said board shall become vacant.

Annual report: contents.

Sec. 829. The board of docks shall annually present to the mayor of the city a report containing: 1. The name, occupation, and compensation of all officers, clerks and agents appointed and employed by said board. 2. A statement of the actions of the board of docks for the past year, classified with reference to the various subjects and duties which have engaged its attention. 3. A list of the orders and rules made by said board of docks, and a description of the contracts made by said board, the payments made by said board, and the purposes and amounts thereof, and the leases made by said board, for what term, at what rent, to whom and for what property. Said board of docks shall at the time it presents its said annual report to the mayor also file with the civil service supervisory and examining boards of the city of New York a complete statement of the name, address and salary, or compensation of all persons employed in any capacity by said board of docks, which shall be published in the City Record and the corporation newspapers.

Seal.

Sec. 830. The board of docks may adopt a common seal for said department of docks and ferries, and direct its use. Said seal shall be a device of the arms of the city of New York surrounded by the words "Department of docks and ferries. The city of New York," engraved upon a metal disk two and one-quarter inches in diameter, and the same may be renewed whenever necessary. An impression of such seal made directly on paper shall be as valid as if made on a wafer or on wax.

Every lease, contract or other instrument, executed in pursuance of any authority conferred on said board of docks by law, and sealed with such seal, attested and proved according to law by the secretary appointed by said board, shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with the like effect as if sealed with the seal of the corporation of the city of New York, attested and proved by the city clerk thereof.

Lands under water owned by state.

Sec. 831. The commissioners of the land office are hereby authorized to convey by proper instruments, in writing, necessary for the purpose, all the property, right, title and interest of the people of the state of New York, in and to the land under water, which the board of docks may deem necessary for the construction of wharves, docks, piers, bulkheads, basins and slips, under this chapter, whenever said commissioners may be required by said board of docks to make such conveyance to the city of New York. But such conveyance shall be made after compliance with such reasonable rules and regulations as the said commissioners of the land office are now empowered to make by law; and nothing in this chapter shall be so construed as to remove or limit the powers and duties of the said commissioners as now conferred upon them by the statutes of the state and as prescribed in other sections and provisions of this act.

May deepen water adjoining wharf, etc.

Sec. 832. It shall be lawful for the board of docks to order and direct that the water near and adjoining any private wharf, pier, dock, bulkhead or land within the limits of the city of New York, be deepened by excavating or removing the earth, mud, dirt or sand therefrom, and to cause the same to be done in such places and at such times as the said board may deem necessary and proper.

Property and wharf property defined.

Sec. 833. The terms "property" and "wharf property" whenever used in this chapter shall be taken to mean not only all wharves, piers, docks, bulkheads, slips and basins, but the land beneath the same, and all rights, privileges and easements appurtenant thereto, and such upland or made land adjacent to the said wharves, piers, docks, bulkheads, slips and basins, jurisdiction over which said upland and made land may be assigned to the department of docks and ferries by the commissioners of the sinking fund.

Sites for floating baths.

Sec. 834. The board of docks shall, upon the requisition of the commissioner of public buildings, lighting and supplies, furnish free of charge, in the vicinity of such location as shall be designated by said commissioner accessible, convenient and safe berths for mooring the free floating baths, authorized by law.

Public markets and wharves.

Sec. 835. It shall be lawful for the city of New York, in case it shall find it necessary, to cause public markets to be erected and kept over the waters of the East and North rivers adjoining to any of its docks or wharves; provided, that such markets shall not interfere with the flow of the waters of

the said rivers, nor be built beyond the pier or bulkhead line established by law.

Docks to be set apart for street cleaning department and board of health.

Sec. 836. The board of docks shall designate and set apart for the use of the department of street cleaning, the board of health and other city departments, suitable and sufficient wharves, piers, bulkheads, slips and berths in slips for the use of said departments.

Setting apart piers for recreation.

Sec. 837. The board of docks is hereby authorized to set apart the following piers in the city of New York, to wit: A pier at or near the foot of Perry street, on the Hudson river, and such other piers along the Hudson river water front and the East river water front of the said city, as the said board of docks shall deem, from time to time, necessary for the use of the inhabitants of the city of New York, as hereinafter provided, and for the convenience of dealers in country produce and other merchandise transported to the city of New York for sale.

The purpose of this section is to afford the inhabitants of the city of New York greater opportunity for healthful recreation than they now possess, and to accomplish such end the said board of docks is hereby authorized to construct or rebuild the piers set apart under the provisions of this section for public use in such manner as shall provide a platform or upper story thereof, and the approaches thereto shall be constructed under the direction of a skilled architect, who shall be employed by said board of docks for that purpose. The intention hereof being to permit the upper story of each one of the piers herein authorized to be set apart for public use wholly free to the inhabitants of said city for the purpose aforesaid without interference with business occupations, and the said piers on the lower stories thereof shall be open to use to boats and vessels plying upon canals, rivers and lakes of this state which may bring merchandise to the city for sale therein. The occupation of positions by boats at the piers herein mentioned shall be under the control of the board of docks, and order shall be maintained by the police authorities of the city of New York in and around such portions of the said docks as may be set apart for recreation purposes aforesaid. Except as hereinbefore provided, no wharf, pier, bulkhead or shed shall be required by the board of docks to be so constructed as to admit of the free public use of the roof thereof for purposes of resort and recreation.

Water-front to be set apart for use of fire department.

Sec. 838. The board of docks, with the consent and approval of the commissioners of the sinking fund, is hereby authorized to set apart, for the permanent and exclusive use of the fire department of the city of New York, so much of the water front owned by said city as shall be deemed necessary for the exclusive use of the said fire department of the city of New York.

TITLE 2.

PIERS, SLIPS AND WHARFAGE.

Sheds for protection of property upon piers or bulkheads: construction of the same regulated by board of docks.

Sec. 844. Whenever any person, company or corporation, engaged in the business of steam transportation, shall be owner or lessee of any pier or bulkhead in the city of New York, and shall use and employ the same for the purpose of regularly receiving and discharging cargo thereat, it shall be lawful for such owner or for such lesee, with the consent of the lessor, to erect and maintain, upon such pier or bulkhead, sheds for the protection of property so received or discharged, provided they shall have obtained from the board of docks, in said city, license or authority to erect or maintain the same, and subject to the conditions and restrictions contained in such license or authority; but when such license or authority has been granted and has been acted upon it shall not be revoked by said board without the consent in writing of the mayor and of the commissioners of the sinking fund, after due hearing of such licensee. All sheds or structures erected or maintained upon any wharf or pier in the city of New York, as heretofore known and bounded, under any license or permit heretofore granted by the department of docks of said city, or hereafter erected or maintained upon any wharf or pier in the city of New York, under any license or permit granted by the board of docks of said city, are declared to be lawful structures, subject to the terms and conditions of the license or permit authorizing the same. Such sheds hereafter shall be constructed subject to the regulations and under the authority of the board of docks. Any such owner or lessee of a pier or of a pier and bulkhead, or a part thereof, in respect to which the board of docks shall have granted the license or authority herein specified, shall be entitled to the use of the premises so owned or leased by them and no vessel shall be placed in any berth on such pier or bulkhead, or part thereof, without the consent of such owner or lessee, during the continuance of such license. The board of docks shall have power to build the above structures on any wharf or bulkhead belonging to the city of New York, and shall have power to lease the same, and any lessee thereof shall have all the rights and privileges above granted. Provided that all sheds or structures lawfully erected or maintained at the time this act takes effect upon any wharf or pier in any part of the territory embraced within the city of New York, as constituted by this act, are hereby declared to be lawful structures.

Wharves, slips, etc., not to be used as dumping grounds.

Sec. 845. It shall not be lawful to permit the use as a dumping ground of any wharf, pier or slip, or bulkhead adjacent thereto in the navigable waters of the East river, in the city of New York, which has heretofore been used for the loading and discharging of sailing vessels regularly employed in foreign commerce and having a draught of more than eighteen feet of water.

Storehouses, booths, shops, etc., on sheds not authorized.

Sec. 846. Nothing in the two preceding sections contained shall be construed to authorize the erection or maintenance on any pier of any storehouses, booths, shops, or other structures than the sheds mentioned in the last section but one, with the proper doors and gates appertaining thereto, nor to impair any powers conferred upon the board of docks, except as provided by said section.

Offices abolished.

Sec. 847. The offices of captain of the port of New York and of harbor masters of the port of New York are hereby abolished. The dock masters appointed by the board of docks of the city of New York, as constituted by this act, shall be vested with all the powers and shall perform all the duties conferred or imposed upon the dock masters appointed by the commissioners of docks of the city of New York, as heretofore known and bounded, by chapter 199 of the laws of 1888 and the acts amendatory thereof and supplementary thereto.

Dock masters: certain powers of.

Sec. 848. The dock masters appointed by the board of docks of the city of New York shall be vested with all the powers and perform all the duties conferred on or imposed upon the harbor masters of the port of New York by a certain act, entitled, "An act to provide for the appointment of a captain of the port of New York and harbor masters of the port of New York, and defining and regulating the powers and duties and compensation of said officers, and repealing chapter four hundred and eighty-seven of the laws of eighteen hundred and sixty-two," passed May 4, 1883, and known as chapter three hundred and fifty-seven of the laws of eighteen hundred and eighty-three.

Nothing in this section contained shall entitle the said dock masters to any additional compensation for performing the duties and exercising the powers hereby imposed and conferred. Each of said dock masters shall personally perform the duties assigned to him by the board of docks. He shall not appoint any deputy, or assistant, or delegate the powers of his office to any person or persons whatever. He shall not collect any fees except such as are now or may be authorized by law, and which shall be specified by the board of docks. He shall not take or receive, directly or indirectly, any money, or value, thing or compensation for his services, or on account of the exercise of his powers of office, except as now provided, or which may hereafter be provided by law and the regulations of the board of docks.

Any dock master violating any of the provisions of this section shall, upon conviction thereof by any court of record, be punished by a fine of five hundred dollars, and in addition thereto may, in the discretion of the court, be imprisoned in the county jail for a term not exceeding thirty days.

Removal of obstructions, etc., from piers, etc.

Sec. 849. Whenever any pier, wharf or bulkhead in the city of New York shall be incumbered or obstructed in its free use by merchandise, or by any material not affixed to such pier, wharf or bulkhead, the board of docks are hereby authorized to require the owner, consignee or person in charge of such merchandise or material to remove the same without any unnecessary delay, and the said board shall have power, from time to time, to make such general rules and regulations and give such directions as will secure dispatch in loading and unloading vessels and the prompt removal of the same from the piers as soon as completed, and also such as shall be necessary to prevent any unnecessary accumulation of freight or merchandise upon any pier or wharf, while any vessel shall be engaged in receiving or discharging her cargo; provided, however, that the power hereinbefore conferred shall not be exercised in reference to any obstruction or incumbrance upon any pier or wharf occupied by any regular line of steamboats or steamships, or by any railroad company, except upon the written request of the occupant or lessee of such pier or wharf.

Expense of carrying out last section.

Sec. 850. Whenever the board of docks shall make any order to give any direction in pursuance of the power conferred by the last

preceding section, it shall be the duty of the owner, consignee or person in charge of the merchandise, property or vessel in reference to which such order or direction is given, to comply with the same without any unreasonable delay, or, in default thereof, the said board of docks may employ such laborers and assistance as may be necessary to carry out such order or direction, by the removal of the material, merchandise or vessel in reference to which the same was given; and all expenses actually and necessarily incurred in effecting such removal shall be paid by the owner, consignee or person in charge of the material, merchandise or vessel so removed, and the amount thereof shall be a lien upon the same in favor of the board of docks and may be enforced in the same manner and by the same proceedings as liens on vessels are enforced by warrant of attachment, under and pursuant to the provisions of the act entitled "An act to provide for the collection of demands against ships and vessels," passed April twenty-fourth, eighteen hundred and sixty-two, and all the provisions of said act, so far as the same can be made applicable, shall apply to the liens hereby created; and the said board shall, for the purposes of this section, be deemed a creditor of said owner, consignee or person in charge, and each of them, for the amount of the expenses so incurred, and may have and maintain an action against them, or either of them, to recover the same.

Removal of obstructions, continued.

Sec. 851. Whenever any pier or bulkhead or marginal street, wharf or place in the city of New York shall be incumbered, or its free use interfered with by merchandise, lumber, trucks, wagons or any other obstruction, whether of loose materials or built upon or affixed to the pier or bulkhead or marginal street, wharf or place without authority of law, it shall be the duty of the board of docks to notify the person or persons placing or keeping such merchandise or other obstructions on such pier or bulkhead or marginal street, wharf or place, to remove such merchandise or other obstructions within twenty-four hours after such notice; and in case of failure to comply with such notice and to remove such merchandise or obstruction, the person or persons so notified shall be liable to pay to the board of docks the sum of twenty-five dollars for each and every day during which such merchandise or obstruction shall remain on such pier or bulkhead or marginal street, wharf or place. And the board of docks shall have power, in its discretion, to remove any merchandise, lumber, trucks, wagons or any other obstruction so incumbering any pier or bulkhead, or marginal street, wharf or place, and to store the same in a warehouse or other proper receptacle, and a sum equal to the amount of the expenses of removal, together with the charges for storage, shall be paid by the owner of such merchandise to the board of docks, and shall be a lien on such merchandise until paid.

Storage of obstructions.

Sec. 852. Whenever merchandise discharged from a vessel and incumbering a bulkhead or pier, in the port of New York, shall not, in the judgment of the said board of docks, be of sufficient value to pay the expenses of removal and storage, as provided in the last preceding section, such merchandise shall be removed and stored at the expense of the owner, consignee, or master of the ship or vessel from which such merchandise shall have been discharged.

Unclaimed merchandise to be advertised.

Sec. 853. At the expiration of every six months it shall be the duty of said board of docks to advertise, for one week in the City Record and the corporation newspapers the merchandise, lumber, trucks, wagons or other obstruction which they have stored and which has remained unclaimed, setting forth the marks and numbers of each package, or parcel, the description of the merchandise, or material, the pier whence such merchandise was removed, and the date of such removal, and if any of such merchandise or material so advertised shall remain thereafter unclaimed for three months, said board of docks may then sell the same, after further advertisement for one week in the City Record and the corporation newspapers, at public auction, to the highest bidder, to pay the expenses which have been incurred on such merchandise, lumber, trucks, wagons or other obstruction, and the remainder shall be held in trust by the said board for the owner or owners thereof, for twelve months, when, if not claimed, it shall be paid over to the commissioners of the sinking fund.

Canal boats: territory appropriated to.

Sec. 854. All that part of the water adjacent to the wharves of the city of New York, as heretofore known and bounded, from the west side of pier No. 3, to and including the east side of pier No. 8, East river, shall hereafter from the 20th day of March to the 31st day of December in each year, be set apart, kept and reserved for the exclusive use and accommodation of canal boats and barges engaged in the business of transporting property on the Hudson river, or coming to tide water from the canals of the state, arriving in said city from the city of Albany or any part or place north, or west thereof, and for the use of lighters engaged in loading or unloading such boats or barges; and it shall be the duty of the board of docks and of all officers who now are or hereafter shall be empowered by law, or by any ordinance of the city of New York, as constituted by this act, to regulate or station ships and vessels in the harbor of said city, to prohibit, and prevent all other boats, ships or vessels from entering any of the slips or approaching or lying at any of the wharves between the piers aforesaid, during the period above specified, when such slips or the wharves connected therewith shall be required for the use and accommodation of the canal boats and barges hereinbefore mentioned; and the said board of docks, or other officers, aforesaid, shall assign such other accommodations for said canal boats and barges in other parts of the port of New York, as may, from time to time, be necessary in receiving or discharging their cargoes.

Derricks for unloading canal boats authorized.

Sec. 855. It shall be lawful for the proprietors of any regular line of canl boats or barges using the waters within the limits aforesaid, or any other limits to which they may be assigned, as provided in the preceding section, to erect and maintain upon any of the piers, or wharves adjacent thereto, suitable derricks, to be used by said proprietors and their employes in loading and unloading said canal boats and barges; no derrick or structure so erected shall be deemed an obstruction or incumbrance upon such pier or wharf, within the meaning of any statute or ordinance prohibiting the incumbering or obstructing any such pier or wharf, or authorizing the removal of obstructions or incumbrances upon the same.

Occupation of waters by ships not entitled thereto.

Sec. 856. Whenever any portion of the waters mentioned in the last section but one shall be occupied by any ship or vessel not entitled to occupy the same according to the provisions of that section, and the proprietor or proprietors or person in charge of any of the canal boats or barges specified in said section, shall desire to use the berth or slip occupied by such ship or vessel, it shall be the duty of said board of docks, upon the request of the proprietor or consignee or person in charge of said canal boat or barge forthwith to remove such ship or vessel as far as may be necessary to accommodate such canal boat or barge. If the said board of docks to which such request is made shall neglect or refuse to comply with the same, the members thereof shall, for each such neglect, or refusal, jointly forfeit and pay to the proprietor or proprietors of the canal boat or barge, in reference to which request was made, the sum of fifty dollars, to be sued for and recovered by and in the name of such proprietor or proprietors, for his or their use and benefit in any court of competent jurisdiction.

Failure to remove when ordered: penalty.

Sec. 857. Any person in command or in charge of any ship or vessel which the board of docks is authorized and required to remove, as specified in the last preceding section, who shall neglect or refuse to comply with any order or direction of the said board in reference to the removal thereof, or who shall resist or obstruct the removal of such ship or vessel, shall, for every such offence, forfeit and pay the sum of $50, to be sued for and recovered, with costs, by and in the name of said board of docks in any court of competent jurisdiction.

Certain docks and piers set apart for garden produce.

Sec. 858. The docks, piers and bulkheads on the Hudson river from Gansevoort street to Little West Twelfth street, shall be set apart by the board of docks, or such department as shall have control thereof, and kept for the use of boats, barges and other vessels engaged in the business of transportating farm and garden produce, at such rates of wharfage as have been, or shall be lawfully established, and said board of docks, or other department, having control of said docks, piers and bulkheads, may from time to time, when said docks, piers or bulkheads are not in actual use for the purposes above mentioned, allow the same to be used for other and additional purposes, and they are hereby authorized and empowered at any such time to designate and appropriate any or all of said docks, piers or bulkheads for any public or general use, and such designation or appropriation shall be subject at any time to revocation by said board or department making the same.

Wharfage and dockage rates enumerated.

Sec. 859. It shall be lawful to charge and receive, within the city of New York, wharfage and dockage at the following rates, namely: From every vessel that uses or makes fast to any pier, wharf, or bulkhead within said city or makes fast to any vessel lying at such pier, wharf, or bulkhead, or to any other vessel lying outside of such vessel, for every day or part of a day, except as hereinafter provided, as follows: From every vessel of two hundred tons burden and under, two cents per ton; and for every vessel over

two hundred tons burden, two cents per ton for each of the first two hundred tons burden and one-half of one cent per ton for every additional ton, except that, save as hereinafter provided, vessels known as North river barges, market boats and barges, sloops employed upon the rivers and waters of this state and schooners exclusively employed upon the rivers and waters of this state shall pay for every such vessel under the burden of fifty tons, at the rate of fifty cents per day; for every such vessel of the burden of fifty tons and under the burden of one hundred tons, at the rate of sixty-two and a half cents per day; for every such vessel of the burden of one hundred tons and under the burden of one hundred and fifty tons, at the rate of seventy-five cents per day; for every such vessel of the burden of one hundred and fifty tons, and under the burden of two hundred tons, at the rate of eighty-seven and a half cents per day; and for every such vessel of the burden of two hundred tons and under the burden of two hundred and fifty tons, at the rate of one hundred cents per day; for every such vessel of the burden of two hundred and fifty tons, and under the burden of three hundred tons, at the rate of one hundred and twelve and a half cents per day; for every such vessel of the burden of three hundred tons, and under the burden of three hundred and fifty tons, at the rate of one hundred and twenty-five cents per day; for every such vessel of the burden of three hundred and fifty tons, and under the burden of four hundred tons at the rate of one hundred and thirty-seven and a half cents per day; for every such vessel of the burden of four hundred tons, and under the burden of four hundred and fifty tons, at the rate of one dollar and fifty cents per day; for every such vessel of the burden of four hundred and fifty tons, and under the burden of five hundred tons, at the rate of one hundred and sixty-two and a half cents per day; for every such vessel of the burden of five hundred tons and under the burden of five hundred and fifty tons, at the rate of one hundred and seventy-five cents per day; for every such vessel of the burden of five hundred and fifty tons, and under the burden of six hundred tons, at the rate of one hundred and eighty-seven and one-half cents per day; for every such vessel of the burden of six hundred tons and upward, to pay twelve and a half cents, in addition for every fifty tons in addition to the rate last mentioned, for every day such ship or vessel shall use or be made fast to any of the said wharves; but no boat or vessel over fifty tons burden shall pay less than fifty cents for a day or a part of a day, and the class of sailing vessels now known as lighters shall be at one-half the first above rates. Every other vessel making fast to a vessel at any pier, wharf or bulkhead within said city, or to another vessel outside of such vessel, or at an anchor within any slip or basin, when not receiving or discharging cargo or ballast, one-half the first above rates; and from every vessel or floating structure, other than those above named, or used for transportation of freight or passengers, double the first above rates, except that floating grain elevators shall pay one-half the first above rates; and every vessel that shall leave a pier, wharf, bulkhead, slip or basin, without first paying the wharfage or dockage due thereon, after being demanded of the owner, consignee or person in charge of the vessel, shall be liable to pay double the rates established by this section.

Id. On vessels in clam or oyster trade.

Sec. 860. Vessels of two hundred tons burden and under, which shall be actually engaged in the clam or oyster trade, and which shall make fast to any pier, wharf or bulkhead within the city of New York, shall pay one and one-half cents per ton per day, and every such vessel which shall make fast to another vessel lying at any such pier, wharf or bulkhead, or to any vessel lying outside of such vessel, or that shall anchor within any slip or basin in said city shall pay one cent per ton per day; provided, however, that no vessel shall pay less than twenty-five cents nor less than one day's wharfage, nor shall more than one-day's wharfage be charged unless for a continuous use of the pier, wharf, bulkhead, slip or basin of more than twenty-four hours. The board of docks may grant permits for vessels or floating structures engaged in the oyster business and used for the receipt, preparation and opening of oysters and other shell fish to remain continuously moored to or at any of the docks, piers and bulkheads within the city of New York, not otherwise specifically appropriated by law to the sole use of other kinds of commerce, upon such terms as to wharfage and otherwise, and subject to such regulations as said board may prescribe. All permits so granted by such board shall be subject at any time to revocation by it. Upon any such permit being granted the person or persons, or corporation receiving the same, shall be entitled to moor such vessels or floating structures, continuously and until such permit shall be revoked, to or at the dock, pier or bulkhead designated in such permit for that purpose subject to the terms of such permit; provided, however, that where the city of New York is not the owner of the dock, pier or bulkhead designated in such permit, the consent of the owner or owners of the same, or of the person or persons entitled to collect wharfage therefrom, shall have been obtained.

Id. Canal boats and vessels carrying brick.

Sec. 861. Every canal boat and any vessel engaged in freighting brick on the Hudson river occupying a berth next to any pier, wharf, or bulkhead in the city of New York, and engaged in delivering cargo upon said pier, wharf, or bulkhead, or receiving cargo therefrom, shall pay wharfage at the rate of fifty cents for every day or part of a day while so engaged; but when unloaded such canal boats or vessels aforesaid shall pay wharfage at the rate of thirty cents per day or part thereof; but no canal boat or vessel lying in any slip between two adjacent piers shall be required to pay full wharfage to the owners or lessees of both said piers for the same day, notwithstanding such canal boat or barge may, during said day, have changed her location between said piers; provided that they shall pay one-half rates to each owner or lessee when they have changed their locations between said piers; and the word "day," whenever it occurs in this and the last preceding section, shall be taken and construed to mean twenty-four hours.

Rates for goods, etc., remaining on pier or wharf.

Sec. 862. It shall be lawful for the owners or lessees of any pier, wharf or bulkhead within the city of New York, to charge and collect the sum of five cents per ton on all goods, merchandise, and materials remaining on the pier, wharf or bulkhead owned or leased by him, for every day after the expiration of twenty-four hours from the time such goods, merchandise and materials shall have been left or deposited on such pier, wharf or bulkhead and the same shall be a lien thereon.

Rates to be printed in wharfage bills.

Sec. 863. It shall be the duty of every person owning or having charge of any pier, wharf, bulkhead, or slip in the city of New York to cause to be printed on the backs of all bills presented by them for wharfage, section 859 of this act, and the owner, consignee or person in charge of any vessel shall not be required to pay the wharfage or dockage due on such vessel unless upon his demand the bill printed in conformity with this section is presented to him. Any person owning or having charge of any pier, wharf, bulkhead or slip as aforesaid who shall receive for wharfage any rates in excess of those now authorized by law shall forfeit to the party aggrieved treble the amount so charged as damages, to be sued for and recovered by the party aggrieved.

What waters included in port of New York.

Sec. 864. The port of New York, wherever the same is mentioned or referred to in this chapter, shall be deemed and taken to include, unless otherwise expressly stated, all the waters of the North river and East river and the harbor embraced within or adjacent to or opposite to the shores of the city of New York, as constituted by this act.

Additional accommodations for canal boats.

Sec. 865. The board of docks shall, in addition to the piers and waters especially assigned thereto by law, assign such accommodations for canal boats and barges engaged in the business of transporting property on the Hudson river, or coming to tide water from the canals of the state, or arriving in said port from Albany, or any place north or west thereof, as may from time to time be necessary in receiving and discharging their cargoes.

Penalty for vessels wrongfully entering canal boat territory.

Sec. 866. No vessel, other than canal boats, barges or lighters receiving or delivering property from or to said canal boats or barges, shall use or enter into for the purpose of using any part of the port of New York set apart for the use of canal boats and barges without the written consent of the board of docks had and obtained therefor, and then only between the first day of January and twentieth day of March in each year, and when not occupied by canal boats, under a penalty of one hundred dollars for every day that such vessel shall remain in said part of said port so set apart after being notified to leave by the said board, and said penalty shall be a lien upon any such vessel, and be enforced by proceedings against it, instituted by and in the name of the said board of docks according to the provisions of the laws of this state concerning attachments against vessels.

Powers of dock masters to assign and regulate stations for vessels; penalty for refusing to obey direction.

Sec. 867. Each dock master appointed by the board of docks shall have power, within the district assigned to him, subject to the other provisions of this act, to provide and assign suitable accommodations for all ships and vessels, and regulate them in the stations they are to occupy at the wharves or in the

stream, and to remove from time to time such vessels as are not employed in receiving or discharging their cargoes; to make room for such others as require to be more immediately accommodated for the purpose of receiving or discharging their cargoes, and shall have power to determine as to the fact of their being fairly and in good faith employed in receiving or discharging their cargoes, and shall have authority to determine how far and in what instance it is the duty of the master and others having charge of ships and vessels to accommodate each other in their respective situations. And if any master or any person having charge of any vessel, canal boat, barge, or lighter shall refuse or neglect to move his vessel, canal boat, barge or lighter when ordered to do so by the dock master, or shall resist or forcibly oppose said officers in the discharge of their duties, such master or persons so refusing, neglecting, resisting or opposing, shall, for every such offense, forfeit and pay the sum of fifty dollars to be recovered with costs of suit, by and in the name of the board of docks before any court having cognizance thereof.

False personation of dock master.

Sec. 868. Any person who shall falsely represent himself to be a dock master, or wrongfully perform the duties of dock master, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the county jail for a term not exceeding sixty days and fined, in the discretion of the court, a sum not exceeding twenty-five dollars.

Violations to be reported.

Sec. 869. It shall be the duty of the dock masters appointed by the board of docks to report to said board all violations of any of the provisions of this chapter and of the rules and regulations of the board of docks which may come to the knowledge of said dock masters or which may be known to them by complaint or otherwise.

Floating docks authorized.

Sec. 870. It shall be lawful for the floating docks of the New York Balance Dock company and of the New York Floating Dry Dock company to be used, with the consent of the owners of the piers or bulkheads, respectively occupied for such use, or of the persons entitled to collect wharfage for such piers or bulkheads, for the purpose of taking up ships and vessels for repair, coppering or finishing, in the manner heretofore practiced in the port of New York, subject to the authority established by this act to regulate by ordinance the use of the slips, piers and wharves of the city of New York.

TITLE 3.

GENERAL PROVISIONS.

Grants of land under water restricted.

Sec. 876. No grants of land under water shall be made by the municipal assembly of the city of New York, or by any officer, board or department thereof, beyond the exterior lines of the city of New York, as fixed by act of legislature, passed April seventeenth, eighteen hundred and fifty-seven, entitled, "An act to establish bulkhead and pier lines for the port of New York," as amended by subsequent acts, unless as expressly authorized by acts passed subsequent thereto.

Time for improving lands adjacent to water on Harlem river.

Sec. 877. The period of time fixed for the appropriation to the purposes of commerce by the construction of a dock or docks, and filling in the same, in all letters patent issued by the people of the state of New York to the owners of the adjacent upland for lands under water and between high and low water mark in front of and adjacent to the lands of the said owners of the adjacent upland on the easterly shore of the Harlem river, is extended until two years after the time when plans for the improvement of said river shall have been or shall be completed by the proper authorities, and copies of such plans, filed, one in the office of the register of the county of New York, and one in the office of the secretary of state at Albany.

Dumping snow and ice from piers.

Sec. 878. It shall be lawful for the commissioner of street cleaning to cause to be dumped, or authorize to be dumped, snow and ice between the piers near their inshore ends, into the waters of the East and North or Hudson rivers.

Injuries to vessels lying at exterior end of wharf.

Sec. 879. It shall not be lawful for any vessel, canal boat, barge, lighter or tug to obstruct the waters of the harbor by lying at the exterior end of wharves in the waters of the North or East river, except at their own risk of injury from vessels entering or leaving any adjacent dock or pier; any vessel, canal boat, barge, lighter or tug so lying shall not be entitled to claim or demand damages for any injury caused by any vessel entering or leaving any adjacent pier.

Certain substances not to be dumped in port of New York.

Sec. 880. The placing, discharging or depositing, by any process or in any manner, of refuse, dirt, ashes, cinders, mud, sand, dredgings, sludge acid, or any other refuse matter, floatable or otherwise, in the tidal waters of the port of New York as defined by this act, except under permit of the United States supervisor of the harbor, is hereby strictly forbidden, and every person violating the foregoing provisions shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two hundred and fifty dollars nor less than five dollars, or imprisonment for not more than six months nor less than ten days, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction of such misdemeanor.

Scows to receive ashes, etc., from steam tugs and vessels.

Sec. 881. The various scows employed by the city of New York, or by the contractors for removing ashes, garbage and refuse of said city, while moored at the various dumping boards of said city are hereby designated and required to receive directly any and all ashes or rubbish from any steam tug or steam vessel in the harbor, and in addition to the foregoing provisions two or more scows shall be located at such points within the harbor as the supervisor of the harbor may direct for the special use of boats and vessels wishing to discharge ashes or rubbish.

CHAPTER XVII.

TAXES AND ASSESSMENTS.

Title 1. Department of taxes and assessments; powers and duties.
2. Assessments for local improvements other than those confirmed by a court of record.
3. Vacating and modifying assessments for local improvements other than those confirmed by a court of record.
4. Opening streets and parks.
5. Sales of lands for taxes, assessments and water rates.

TITLE 1.

DEPARTMENT OF TAXES AND ASSESSMENTS, POWERS AND DUTIES.

One of the departments of the city.

Sec. 884. The department of taxes and assessments shall be one of the departments in said city.

Department: how composed. Term and salaries.

Sec. 885. The head of the department of taxes and assessments shall be called the board of taxes and assessments. Said board shall consist of a president, who shall be designated in his appointment, and four other persons, one of whom at least shall be a person learned in the law, who shall be called commissioners of taxes and assessments. The president, unless sooner removed, shall hold his office for the term of six years, and until his successor shall be appointed and has qualified. The other commissioners shall unless sooner removed, hold their respective offices for the term of four years, and until their successors shall be appointed and have qualified. The commissioners first appointed under this act shall hold office by designation of the mayor for terms of one, two, three and four years respectively. The commissioners thereafter appointed shall hold office for the term of four years. The salary of the president shall be eight thousand dollars a year, and the salary of each of the other commissioners six thousand dollars a year.

Devolution of power.

Sec. 886. All of the rights, powers and duties heretofore devolved by law upon the board of taxes and assessments in the city of New York, upon the department of assessment of the city of Brooklyn, and upon like departments, boards or officers of taxes and assessments other than for street improvements in the other municipal and public corporations or parts of municipal and public corporations consolidated by this act with the municipal corporation known as the mayor, aldermen and commonalty of the city of New York are hereby devolved, unless otherwise herein expressly provided, upon and vested in the board of taxes and assessments in the city of New York.

Deputy tax commissioners: how appointed: their duties, term of office and salary.

Sec. 887. The board of taxes and assessments shall appoint persons to be known as deputy tax commissioners, not exceeding forty

in number, who shall perform, under the direction and supervision of the board of taxes and assessments, such duties as the said board shall prescribe. The said board shall give such directions to the deputy tax commissioners as it shall think expedient to secure in all the boroughs and parts of the city equality of valuations of property for the purposes of taxation. Such deputy tax commissioners shall hold their office during the pleasure of the said board of taxes and assessments, and shall be subject to removal by the said board as deputies in the other city departments. The number of deputy tax commissioners above prescribed may from time to time be increased by the appointment of the board of taxes and assessments, provided such increase is authorized by the board of estimate and apportionment. The salary of each of said deputy tax commissioners shall be two thousand, seven hundred dollars a year.

Apportionment of deputy tax commissioners among the boroughs.

Sec. 888. In making the appointments of the deputy tax commissioners the head of the department of taxes and assessments shall apportion such appointments as nearly as may be, among persons residing in the several boroughs created by this act, according to the population of the several boroughs; and the persons performing similar duties in the several boroughs, when this act takes effect, shall, so far as the board shall deem them fit and competent, be preferred for the said appointments first to be made hereunder.

Deputy tax commissioners; duties of in assessing taxable property.

Sec. 889. It shall be the duty of the deputy tax commissioners, under the direction of the board of taxes and assessments, to assess all the taxable property in the several districts that may be assigned to them for that purpose by said board, and they shall furnish to the said board, under oath, a detailed statement of all such property, showing that said deputies have personally examined each and every house, building, lot, pier, or other assessable property, giving the street, lot, ward, town and map number of such real estate embraced within said districts, together with the name of the owner or occupant, if known; (also, in their judgment, the sum for which said property under ordinary circumstances would sell), with such other information in detail relative to personal property or otherwise, as the said board may, from time to time require. Such deputies shall commence to assess real and personal estate on the first Tuesday of September in each and every year.

Offices of the department in the boroughs.

Sec. 890. There shall be an office of the department of taxes and assessments in the borough of Brooklyn, a like office of the department in the borough of Queens, a like office of the department in the borough of Richmond and a like office of the department in the borough of the Bronx; at which the duties of the department of taxes and assessments pertaining to the assessment of property in the said several boroughs shall, under the direction of the board of taxes and assessments, be performed by such number of the deputy tax commissioners or other employes of the department of taxes and assessments as the said department may decide to be necessary and assign to such duties. Such offices shall in law be a part of the main office, and the main office of the department of taxes and assessments shall be maintained in the borough of Manhattan. The books, maps, assessment rolls, files and records pertaining to the department of taxes and assessments of the municipality heretofore designated as the mayor, aldermen and commonalty of the city of New York, of the department of assessment of the city of Brooklyn and of each and every of the like offices in any of the municipal and public corporations, or parts of municipal and public corporations consolidated by this act with the municipal corporation of the mayor, aldermen and commonalty of the city of New York, shall be delivered into and thereafter be in the custody and control of the department of taxes and assessments hereby constituted, to be kept in such of the offices of the said department as may be most convenient to the taxpayers and suitable to the proper discharge of the business of such department and shall be public records, and at all reasonable times open to pubilc inspection.

Surveyor.

Sec. 891. The said department of taxes and assessments shall appoint a surveyor from one of the city surveyors, whose duty it shall be to make necessary surveys and corrections of the ward maps, and also to make all new maps which may be required for the more accurate assessment of real estate within the territory consolidated by this act with the municipal corporation known as the mayor, aldermen and commonalty of the city of New York. He shall hold his office at the pleasure of the department of taxes and assessments, and may have such assistants as the said department may decide to be necessary and provide.

Annual record of assessed valuation; what to contain and when to be open for examination and correction.

Sec. 892. There shall be kept in the several offices established by the department of taxes and assessments books to be called "The annual record of the assessed valuation of real and personal estate of the borough of ——," in which shall be entered in detail the assessed valuations of such property within the limits of the several boroughs of the city of New York as established by this act, which said books shall be open for examination and correction from the second Monday in January until the first day of May, in each year; but on said last mentioned day the same shall be closed to enable the board of taxes and assessments to prepare assessment rolls of the several boroughs for delivery to the municipal assembly. The said board previous to and during the time the said books are open as aforesaid for inspection shall advertise the fact in the City Record, and in the corporation newspapers and in such other newspaper or newspapers published in the several boroughs created by this act as may be authorized by the board of city record; provided, however, that for the year 1898 it shall be sufficient if said books be kept open from the first Monday of February to the first day of May of that year.

Annual record of assessed valuation of real and personal estate of corporations to be kept in main office.

Sec. 893. The department of taxes and assessments shall cause to be prepared and kept in the main office of the department of taxes and assessments, books to be called the annual record of the assessed valuations of real and personal estate of corporations, and it shall be the duty of the deputy tax commissioners in the several districts in the several boroughs which may be assigned to them for that purpose by the board of taxes and assessments, to furnish to the department of taxes and assessments, under oath at their main office, at the time that such statement is filed in any office of the department of taxes and assessments in any borough other than in the main office in the borough of Manhattan, a duplicate detailed statement of the assessable property of corporations, both real and personal, which said statements of said deputy tax commissioners shall be entered upon the books to be kept in the main office of the department of taxes and assessments, to be known as the annual record of the assessed valuation of real and personal estate of corporations.

Assessed valuation of personal property: how to be entered.

Sec. 894. The assessed valuation of all personal property shall be entered by said deputy tax commissioners, or by such other persons as may be assigned to that duty by the department of taxes and assessments in its several offices, in books or rolls, in alphabetical order, of the names of persons and corporations subject to taxation. No tax or assessment shall be void by reason of the name of the rightful owner or owners, whether individuals or corporations, of real estate in any of the said boroughs not being inscribed in the assessment rolls or lists; but in such a case no tax shall be collected except from the real estate so assessed. The assessed valuation of all real and personal property of corporations shall be entered in duplicate in the office in the borough where the same is assessed and in the main office of the department of taxes and assessments in the borough of Manhattan.

Applications for correction of assessment.

Sec. 895. During the time that books shall be open to public inspection as aforesaid application may be made by any person or corporation claiming to be aggrieved by the assessed valuation of real or personal estate, to have the same corrected. If such application be made in relation to the assessed valuation of real estate, it must be made in writing, stating the ground of objection thereto. The board of taxes and assesments shall examine into the complaint, as herein provided, and if in their judgment the assessment is erroneous they shall cause the same to be corrected. If such application be made in relation to the assessed valuation of personal estate, the applicant shall be examined under oath by a commissioner of taxes and assessments or a deputy tax commissioner, as herein provided, who are hereby authorized to administer such oath, and if the assessment as hereinafter provided be determined by the board of taxes and assessments to be erroneous, it shall cause the same to be corrected and fix the amount of such assessment as the board of taxes and assessments may believe to be just, and declare its decision upon such application within the time and in the manner hereinafter provided. But the commissioners of taxes and assessments may, during the month of May in any year, act upon applications for the reduction of assessments upon either real or personal property filed in their offices on or before the 30th day of April preceding, and cause the amount of any assessment as corrected by the board of taxes and assessments to be entered upon the assessment rolls for the year in which such correction may be made.

When assessed valuation may be increased or diminished.

Sec. 896. The board of taxes and assessment may increase at any time before the

1st of May in each year, or may diminish at any time before the closing of the books of annual record on the 1st day of May in each year, the assessed valuation of any real or personal estate of any individual or corporation as in its judgment may be just or necessary for the equalization or taxation; but it shall not increase such valuations of the property of any individual or corporation after said books are opened for correction and review, except upon notice given to the individual or corporation affected by such increase at least ten days before the fifteenth day of May in each year.

Power of the board to remit or reduce a tax.

Sec. 897. The board of taxes and assessments is hereby invested with power to remit, where in the opinion of the corporation counsel lawful cause therefor is shown. It may reduce, if found excessive, a tax imposed upon real or personal property. It shall require a majority of the commissioners of taxes and assessments to remit or reduce the assessed valuation of personal property, and no tax on personal property shall be remitted, cancelled or reduced unless the person aggrieved shall satisfy the board of taxes and assessments that illness or absence from the city had prevented the filing of the complaint or making the application of the said board within the time allowed by law for the correction of taxes. Any remission or deduction of taxes upon the real estate of individuals or corporations must be made within six months after the delivery of the books to the receiver of taxes for the collection of such tax.

Applications for revision and cancellation of assessment in the several boroughs: when and how made.

Sec. 898. The board of taxes and assessments from the whole number of persons appointed as deputy tax commissioners shall for each of the boroughs wherein one of the offices of the department of taxes and assessments is established and maintained designate one or more deputy tax commissioners, who shall, between the second Monday of January in each year and the first day of May following, receive applications for the revision and cancellation of any assessments entered in the books of annual record of the assessed valuation of real and personal estate in that borough, take testimony on such applications and reduce the same to writing, and when so reduced to writing transmit such applications and testimony, with his recommendation, to the board of taxes and assessments at their main office, in the borough of Manhattan, or to any office of the department of taxes in any borough as the board of taxes and assessments may prescribe. Such deputy tax commissioners as may be designated for the purposes and as prescribed in this section, are hereby authorized between the second Monday of January and the first day of May to administer oaths for the purpose of taking testimony upon all applications for the revision or cancellation of assessments, and they are hereby required and directed to transmit the evidence so taken and reduced to writing, within ten days after the evidence upon any application is taken, with their recommendation, as hereinbefore described. The board of taxes and assessments shall hear at their main office all applications of corporations for revision and cancellation of assessments; and as to all other applications, the said board may prescribe the time and place of hearing thereof in the several boroughs and give such public notice thereof in the city record and in at least one newspaper in each borough as they may designate, and the board may make such rules and regulations as may be appropriate and expedient to the end that the taxpayers of each borough other than corporations may have a hearing in the borough in which they reside or in which their property assessed is situated. All testimony taken by the board of taxes and assessments by any commissioner or by deputy tax commissioners as herein prescribed shall be reduced to writing and shall constitute part of the record of the proceedings upon any assessment. The decision of the board of taxes and assessments, upon any application for the revision, reduction or cancellation of any assessment, and upon the evidence taken thereunder, shall, where the evidence is taken by the board of taxes and assessments, be rendered within thirty days after the hearing upon such application is closed. And where the evidence upon any application is taken by any commissioner or a deputy tax commissioner the determination of the board of taxes and assessments shall be rendered within thirty days after the application and the testimony thereunder shall have been filed with the board of taxes and assessments, at the main office of the department in the borough of Manhattan.

Deputy tax commissioners to make up aggregate amount of assessed valuation in the boroughs.

Sec. 899. It is hereby declared to be the duty of the deputy tax commissioners, or of such other persons as may have been assigned to the charge and direction of any one of the offices of the department of taxes and assessments in the several boroughs, to compute form the annual record of the assessed valuations of real and personal estate in each of the said several offices, the total aggregate amount of the assessed valuation of real and personal property appearing on said books for each of the said boroughs on the second Monday of January in any year, and to transmit a statement of such aggregate amounts of assessed valuations of real and personal property in the said several boroughs to the department of taxes and assessments at their main office in the borough of Manhattan on or before the second Monday of January in each year. The board of taxes and assessments are hereby invested with the power and charged with the duty before opening the books for the public inspection as herein prescribed, to fix such valuations of property for the purposes of taxation throughout the city of New York at such sums as will, in their judgment, establish a just and equal relation between the valuations of property in each borough and throughout the entire city. To this end the board of taxes and assessments is authorized to require the deputy tax commissioners to transmit a report to them of the assessed valuation of real and personal property in the several boroughs at such time prior to the second Monday of January in each year as the board of taxes and assessments may prescribe.

Controller to submit to municipal assembly a statement showing the amounts necessary to be raised.

Sec. 900. It shall be the duty of the controller of said city to prepare and submit to the municipal assembly, at least four weeks before its annual meeting in each and every year for the purpose of imposing the annual taxes, a statement setting forth the amounts by law authorized to be raised by tax in that year, on account of the corporation of the city of New York, as hereby constituted, or for city purposes within said city as created by this act, and purposes for which said city is liable, and also an estimate of the probable amount of receipts into the city treasury during the then current year from all the sources of revenue of the general funds, including surplus revenue from the sinking funds of the mayor, aldermen and commonalty of the city of New York and of any of the municipal and public corporations, or parts of municipal and public corporations, by this act consolidated with the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, other than the surplus of revenues of any such sinking funds for the payment of interest on the city debt of the municipal corporation known as the mayor, aldermen and commonalty of the city of New York, or the like debts of the municipal and public corporations by this act consolidated as aforesaid, and the said municipal assembly is hereby authorized and directed to deduct the total amount of such estimated receipts from the aggregate amount of all the various sums which, by law, they are required to order and cause to be raised by tax in said year, for the purposes aforesaid, and to cause to be raised by tax only the balance of such aggregate amount after making such deductions.

Special provision for taxes of 1897-1898.

Sec. 901. Inasmuch as the amounts due in the way of taxes for state and municipal purposes for the year 1898 will have been levied in the boroughs of Brooklyn, Queens and Richmond, prior to the 1st day of January, 1898, but not in the city of New York, now, in order to prevent double taxation of property outside of the limits of the present city of New York, for the year 1898, it is hereby provided that in said year 1898 the balance so caused to be raised by tax shall be raised exclusively from property within the limits of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York; but it is further provided that in case it shall transpire that the amount levied or collected from any borough outside of the present city of New York, and available to the uses of the city, as constituted by this act, for the year 1898, shall be more or less than its due proportion of the expenses for the year 1898 of the city as constituted by this act, such excess or deficit shall be equalized and adjusted in the budget of the following year; to the end that each borough shall bear its fair proportion of the expenditures of the city for the year 1898. The municipal assembly shall have full power by appropriate ordinances to enforce this provision, and is hereby invested with power to make such equalization and adjustment by different rates of taxation, or otherwise, in the several boroughs, to the end that taking the years 1898 and 1899, together, each borough shall pay its proper proportion of the general expenses of the city for both years.

How county charges and expenses in New York, Kings and Richmond counties and that part of Queens county within the city are to be paid.

Sec. 902. In the statement submitted by the controller to the municipal assembly, as above provided in this chapter, he shall each year include and state specifically the sum or sums necessary to be raised to pay during the current year the salaries of the county officers and the other county charges and expenses in the counties of New York, Kings and Richmond, respectively; and the sum or sums which should be paid for like purposes by that part of Queens county included within the city and the municipal assembly is hereby authorized and directed to levy upon and collect from the taxable property within each of said counties, and part of county, respectively, the sum or sums so necessary to

be raised to pay the salaries of county officers and other county charges and expenses of such county or part of county, to the end that each of said counties and said part of Queens county shall ultimately bear and pay all expenses necessary to be incurred within the county or part of county, for county as distinguished from city purposes.

Permits for buildings, etc.; copies of to be sent to the department of taxes and assessments.

Sec. 903. Whenever any permit shall be granted by the proper officer of the city government as created by this act for the erection of any building, pier or bulkhead within said city, a copy of such permit shall be within five days after its issue furnished by the officer granting the same to the department of taxes and assessments.

Exemptions.

Sec. 904. The exemption from taxation of every building for public worship, and every school house or other seminary of learning under the provisions of subdivision 3 of section 4, title 1, chapter XIII of part First of the revised statutes or amendments thereof, shall not apply to any such building or premises within the limits of the city of New York, as defined by this act, unless the same shall be exclusively used for such purpose, and be exclusively the property of a religious society.

Exemptions, continued.

Sec. 905. Nothing in this chapter shall affect any existing and valid exemptions from taxation heretofore created by law respecting any property, real or personal, within the limits of the city of New York as constituted by this act.

Certiorari to review final determination of the department.

Sec. 906. A certorari to review or correct on the merits any final determination of the board of taxes and assessments shall be allowed by the supreme court or any justice thereof directed to the commissioners of taxes and assessments on the verified petition of the party aggrieved, but only on the grounds which must be specified in such petition, that the assessment is illegal, and giving the particulars of the alleged illegality, or is erroneous by reason of over valuation or, in case of real estate that the same is erroneous by reason of inequality in that the assessment has been made at a higher proportionate valuation than the assessment of other real estate on the tax rolls of the city for the same year, specifying the instances in which such inequality exists, and the extent thereof, and stating that he is or will be injured thereby.

When assessment rolls to be made and delivered to the municipal assembly.

Sec. 907. Beginning with the 1st day of May in each year the board of taxes and assessments shall cause to be prepared from the books of annual record of assessed valuations of real and personal estate in the several offices of the department of taxes and assessments in the several boroughs, assessment rolls for each of said several boroughs, and shall, as soon as such rolls are completed, annex to each of said rolls their certificates that the same is correct in accordance with the entries in said several books of record. The rolls so certified must, on the first Monday of July in each year be delivered by the board of taxes and assessments to the municipal assembly, which shall meet at noon on that day at the city hall, or usual place of meeting, in the borough of Manhattan, for the purpose of receiving the same, and for the purpose of performing such other duties in relation thereto as are prescribed by law; except that whenever said first Monday in July shall fall on a legal holiday, said rolls shall be delivered by said board of taxes and assessments on the next succeeding day thereafter to the municipal assembly, which shall meet at noon on such next succeeding day, at the place and in the manner and for the purposes hereinafter specified.

Meaning of the words "board of taxes and assessments" in this chapter. Majority clause.

Sec. 908. Whenever any act is required or authorized to be done or any determination or decision made by the board of taxes and assessments, or any other body or board, then in the absence of express provision to the contrary, any such act, if done, or any such determination or decision, if made by a majority of the body or board shall, within the meaning of this act be held to be the act, determination or decision of the body or board.

Assessments rolls to remain in custody of municipal assembly.

Sec. 909. The tax or assessment rolls, when finally submitted to the municipal assembly on the first Monday of July in each year, shall remain in the custody of said assembly, but the president of the council may, by written permission, permit access to them, and he is hereby, in the name of the municipal assembly and as its act, authorized and directed to cause to be properly estimated and computed the taxes annually imposed, and cause the same to be properly set down or extended in the several assessment rolls or tax books, as required by the next section. It shall also be the duty of said president to cause the items of said taxes to be carefully added and to set down the amount of the same therein; and the duty of said president to cause the items of said taxes to be carefully added, and to set down the amount of the same therein; and when completed to deliver the tax books relating to real estate to the collector of assessments and arrears, in order that the unpaid water rents of each preceding year may be entered therein. After such completion of the assessment rolls or tax books it shall be the duty of the city clerk to procure the proper warrants authorizing and requiring the receiver of taxes to collect the several sums therein mentioned according to law, and such warrants need be signed only by the president of the council and the president of the board of aldermen, and countersigned by the city clerk, and immediately thereafter the president of the council shall deliver the said assessment rolls, with the warrants aforesaid annexed thereto, to the receiver of taxes, at the same time notifying the controller of the amount of taxes in each book, in order that he may cause the proper sum to be charged to the receiver for collection.

Id. Duties of municipal assembly respecting.

Sec. 910. At such annual meeting the municipal assembly must make such alterations in the description of real property belonging to non-residents as may be necessary to render such descriptions conformable to the provisions of law; and if such alterations cannot be made, they must expunge the descriptions of such real property, and the assessments thereon from the assessment rolls. They must also estimate and set down in a fifth column, to be prepared for that purpose in the assessment rolls, opposite to the several sums set down as the valuation of real and personal property, the respective sums, in dollars and cents, to be paid as a tax thereon, rejecting the fractions of a cent. They must also add up and set down the aggregate valuations of the real and personal property in the several boroughs as corrected by them; and must transmit to the controller of this state by mail a certificate of such aggregate valuations, showing separately the aggregate amount of the real and personal property in each borough, as corrected by the municipal assembly.

Corrected roll to be delivered to receiver of taxes.

Sec. 911. They must also cause the assessment rolls of each borough, when corrected according to law, and finally completed, or a fair copy thereof, to be delivered to the receiver of taxes in and for the city on or before the first day of September thereafter, with the proper warrant or warrants annexed, signed by the president of the council and the president of the board of aldermen and countersigned by the city clerk, directing and requiring him to collect from the several persons named in the assessment rolls the several sums mentioned in the last column of such roll, opposite to their respective names, and to pay the same from time to time, when so collected, to the chamberlain of the city.

Penalty for municipal assembly's neglect.

Sec. 912. If the municipal assembly shall willfully refuse or neglect to perform any of the duties required of them by the two preceding sections, each member so refusing or neglecting shall forfeit to the city of New York the sum of five hundred dollars, to be recovered in a civil action; and shall also be punishable for a misdemeanor, and upon conviction thereof, shall forfeit his office.

Where taxes due and payable.

Sec. 913. The receiver of taxes, upon receiving the assessment rolls and warrants shall immediately cause the assessment rolls and warrants for each of the several boroughs wherein he shall, under the designation of the municipal assembly, have an office, to be delivered at and filed in such office, and shall thereafter proceed to collect and receive said taxes from the several individuals and corporations assessed in the said assessment rolls in the manner hereafter prescribed.

Receiver of taxes to give public notice.

Sec. 914. The receiver of taxes shall, immediately after he shall have received the assessment rolls, give public notice in the City Record and the corporation newspapers and in such newspaper or newspapers published in the several boroughs as may be designated by the board of city record, or in default of any newspaper being published in any borough, in such newspaper or newspapers having a general circulation in such borough as the board of city record shall direct, that said assessment rolls have been delivered to him and that all taxes are then due and payable at his office in the said respective boroughs, and that in case of payment on or before the first day of November thereafter the persons so paying shall be entitled to the benefits mentioned in the next section.

Rebate for prompt payment.

Sec. 915. If any person who shall be assessed in any of the said assessment rolls shall pay the amount of his taxes on or before the first day of November, succeeding the delivery of the said assessment rolls and warrants to the said receiver, it shall be the duty of the re-

ceiver or any of his deputies to receive the same, and to deduct therefrom interest, at the rate of 6 per cent. per annum, between the day of such payment and the first day of December then next succeeding.

Interest on unpaid taxes.

Sec. 916. If any such tax shall remain unpaid on the said first day of December it shall be the duty of the receiver of taxes to charge, receive and collect upon such tax so remaining unpaid on that day, in addition to the amount of such tax one percentum on the amount thereof, and to charge, receive and collect upon such tax so remaining unpaid on the first day of January thereafter, interest upon the amount thereof, at the rate of seven per centum per annum, to be calculated from the day on which said assessment rolls and warrants shall have been delivered to the receiver of taxes to the date of payment; and such increase or percentage shall be paid over and accounted for by such receiver from time to time, as a part of the tax collected by him.

Id. Continued.

Sec. 917. It shall be the duty of the said receiver, in person or by his deputies, to charge, collect and receive upon all taxes remaining unpaid on and after the said first day of January, interest at a rate of seven per cent. per annum, to be calculated from the day on which the said assessment rolls and warrants shall have been delivered to the receiver.

Duty of receiver where taxes remain unpaid on the first of November following the delivery of assessments and warrants.

Sec. 918. If any taxes of any year shall remain unpaid on the first day of November next after the assessments and warrants to collect such taxes have been delivered to the receiver of taxes at his office in the borough of Manhattan, it shall be the duty of the receiver to give notice by advertisement for at least ten days in the City Record and the corporation newspapers, and in such daily paper having a general circulation in any borough as the board of city record shall designate, that unless the same shall be paid to him at his office on or before the first day of December, in any such year, he will immediately thereafter proceed to collect such unpaid taxes as provided herein.

Public notice to be given by receiver after December 1st in each year.

Sec. 919. The receiver of taxes shall immediately after the 1st day of December, in each year, give public notice in the City Record, and the corporation newspapers, and in such daily paper having a general circulation in any borough as the board of City Record may designate, at least ten days, notifying all persons or corporations who have omitted to pay their taxes to pay the same to him at his office in the borough of Manhattan or to his several deputies in the several boroughs.

Undivided parts of taxes: payment of.

Sec. 920. If a sum of money in gross has been or shall be taxed upon any lands or premises, any person or persons claiming any divided or undivided part thereof may pay such part of the sum of money so taxed, also of the interest and charges due or charged thereon, and the said controller may deem to be just and equitable; and the remainder of the sum of money so taxed, together with the interest and charges, shall be a lien upon the residue of the land and premises only, which residue may be sold to satisfy the residue of such tax, interest, or charges, in the same manner as though the residue of said tax had been imposed upon the residue of the said lands or premises.

Corporations: tax for, how collected.

Sec. 921. The said receiver of taxes shall proceed in enforcing the collection and payment of taxes against corporations or associations, and their officers and directors, or trustees, in the same manner as against individuals; such taxes shall be paid out of the funds of the company and shall be ratably deducted from the dividends of those stockholders whose stock was taxed, or shall be charged upon such stock, if no dividends be afterward declared.

Daily statement of taxes received to be rendered to chamberlain.

Sec. 922. The receiver of taxes shall enter into suitable books, to be kept by him for that purpose, the sums received by him for taxes, and at the expiration of the office hours for each day, and before 3 o'clock thereof, shall render a statement of the same to the chamberlain and at the same time on each day pay over to the said chamberlain the amount received on such day; he shall also thereupon receive from the said chamberlain a voucher for the payment of such sums, which he shall forthwith, on the same day, exhibit to the controller of the said city. But the duty by this section imposed may, in respect to the borough of Brooklyn, be discharged by the deputy receiver of taxes and the deputy chamberlain located in the borough of Brooklyn, and likewise by similar deputy officers for the borough of the Bronx, the borough of Queens, and the borough of Richomnd.

Receiver's account of taxes received: how to be kept.

Sec. 923. It shall be the duty of the receiver, and of deputy receivers, from time to time to enter in a column, to be made for that purpose, upon the assessment rolls in his possession, opposite to the names of the persons mentioned therein, and who shall pay their tax as aforesaid, to the receiver of taxes, personally or by deputy, the fact of such payment, the amount thereof, and the day when paid, and to enter into suitable books, to be kept for that purpose, on each day such payment, and the names of the parties respectively on whose account the same were paid; and at the expiration of the office hours, and on the same day, he shall furnish to the controller of the said city, personally or by deputy, a detailed statement of such sums of the borough for which received, and the names of the parties respectively on whose account the same have been paid, which shall be filed by the said controller in his office. The controller shall, on each day, immediately after receiving from said receiver or deputy the statement, compare the same with a voucher furnished to him by the chamberlain for the payment thereof to the chamberlain, and if the aggregate amounts thereof shall correspond, shall credit the said receiver of taxes in his book with such amount.

Penalty for failure to report to chamberlain.

Sec. 924. If the receiver of taxes, or any deputy receiver shall on any day omit or neglect to furnish to the chamberlain or to the controller, respectively, the statements and vouchers required by law, or to make the daily payments hereinbefore prescribed, it shall be the duty of the controller forthwith to suspend from office the party delinquent. In case of such suspension the controller shall appoint a suitable person to perform the duties of the officer so suspended, who shall continue to act as such officer, with all the powers conferred upon him by this title, until the parties suspended shall be restored, or another person shall have been appointed. On making such temporary appointment the controller shall be required to take from the party so appointed a bond, with two sufficient sureties, to be approved by the chamberlain, and filed with the said controller, in such penal sum as the said chamberlain may deem just, conditioned for the faithful performance of the duties of the office, during the continuance of the person so appointed therein, and all the provisions of this title prescribing the duties of the receiver of taxes, and the deputy receiver shall apply to the person or persons so appointed in their stead by the controller.

Provision in case of sickness.

Sec. 925. In case of inabiltiy of the receiver to perform the duties of his office by reason of sickness or absence from the city the controller shall designate some suitable person to perform the duties of his office during such inability or absence, and shall, in his discretion, take from such person a bond, with sufficient sureties, in the manner prescribed in the preceding section.

Collection of unpaid personal tax by distress and sale.

Sec. 926. It shall be lawful for the said receiver, if any tax for personal property and the interest thereon, as hereinbefore provided, shall remain unpaid on the fifteenth day of the month of January, succeeding the receipt by him of the rolls, to issue his warrant under his hand and seal directed to any marshal commanding him to levy the said tax, with interest thereon at the rate of seven per cent. per annum from the day of the delivering of the assessment rolls and warrants to the said receiver to the time when the same shall be paid by distress and sale of the goods and chattels of the person against whom the said warrant shall be issued, or of any goods and chattels in his or her possession, wheresoever the same shall be found within the said city, and to pay the same to the said receiver and return such warrant within thirty days after the date thereof. For the purposes of this section the jurisdiction of the marshal is co-extensive with the city of New York. The controller of the city of New York, however, may from time to time, as may be necessary to insure prompt collection of said tax, extend or renew such warrant, but no single extension or renewal thereof shall in any event exceed sixty days.

Id. May add costs of distress and sale.

Sec. 927. In all cases where the said receiver shall proceed by distress and sale of the goods and chattels of any person for the payment of any tax due and payable, it shall be lawful for him to authorize and empower the officer making such distress and sale to collect, in addition to the tax and the interest thereon, the costs of such distress and sale, which costs shall be in addition to any disbursements five cents for every dollar collected to the amount of one hundred dollars, and two and one-half cents for every dollar collected over one hundred dollars.

Id. Sale to be advertised.

Sec. 928. The marshal to whom a warrant for the collection of any tax is issued shall give public notice at the time and place of sale of any property distrained by virtue thereof, and of the property to be sold, at least six days previous to the sale, by advertisements to be posted up in at least three

public places in the ward where such sale shall be made. The sale shall be by public auction.

Id. Disposition of surplus.

Sec. 929. If the property distrained shall be sold for more than the amount of the tax, the surplus shall be returned to the person in whose possession such property was when the distress was made, if no claim be made to such surplus or any other person. If any other person shall claim such surplus, on the ground that the property sold belonged to him and such claim be admitted by the person for whose tax the same was distrained, the surplus shall be paid to such owner; but if such claim be contested by the person for whose tax the property was distrained, the surplus moneys shall be retained by the said marshal until the rights of the parties shall be judicially determined.

Enforcing payment of personal taxes; fine may be imposed.

Sec. 930. In case of the refusal or neglect of any person to pay any tax imposed on him for personal property, if there be no goods or chattels in his possession upon which the same may be levied by distress and sale according to law, and if the value of the property assessed shall be the sum of one thousand dollars, the said receiver, if he has reason to believe that the person taxed has debts, credits, choses in action, or other personal property not taxed elsewhere in this state, and upon which the levy cannot be made according to law, may thereupon, in his discretion, make application to the supreme court, within one year from the date of the return of the warrant by the marshal, to enforce the payment of such tax. The court may impose a fine for the misconduct mentioned in this section, sufficient in amount for the payment of the tax assessed, and ten dollars, costs of motion, together with expenses of the proceedings authorized by this title, to enforce such payment or to punish such misconduct; and the amount of such tax shall be paid out of such fine to the said receiver, who shall pay over the same in like manner as the tax was required to be paid; and costs and expenses of such proceedings shall be paid out of such fine to the said receiver who made the application to enforce the payment of the tax.

Id. Order to prosecute: when operates as assignment of bond.

Sec. 931. Whenever any bond taken under the proceedings referred to in the last preceding section shall be ordered to be prosecuted, such order shall operate as an assignment of the bond to the said receiver, who shall be authorized to prosecute the same in any court of record, in his name as such receiver, as the assignee of the officer to whom the said bond was given, in the same manner as in other actions on bonds with conditions to perform covenants other than for the payment of money; and the measure of damages in such action shall be the extent of such tax, and the cost and expenses of the proceedings to enforce the payment hereof, and shall be applied and paid in like manner as the fine mentioned in the next preceding section is therein directed to be applied and paid, and in all such actions, if the plaintiff recovers, he shall recover all costs against the defendant.

Id. Cases to be sent to corporation counsel.

Sec. 932. It shall be the duty of the receiver of taxes to send or cause to be sent to the corporation counsel, monthly, all cases of personal taxes embraced in the assessment rolls, when the assessment is one thousand dollars or more, and upon which a warrant to any of the marshals of said city has been issued and unsatisfied for a period of sixty days, or returned unsatisfied in whole or part, and of all other cases of personal taxes, except in those cases where the controller may extend the warrant, when application to any court may be made for the collection of the tax, and the said counsel is authorized to make requisitions upon the said receiver for all such cases.

Id. Duties of corporation counsel.

Sec. 933. The corporation counsel shall be charged with the prosecution of all suits or proceedings, in any court having jurisdiction, for the collection of all cases of personal taxes sent to him by the receiver of taxes, or where, by any law of this state, any suit or proceeding may be instituted by such receiver, or any marshal acting under a tax warrant, in any court for the collection of any tax for personal property, and shall, subject to such control, act as counsel to the receiver of taxes, and to any marshal acting under the warrant of said receiver in the collection of any tax for personal property.

Court to dismiss proceedings if satisfied that taxes on personal property cannot be paid.

Sec. 934. The court in which any proceeding may be commenced to enforce the payment of any tax for personal property may dismiss the proceedings absolutely without costs, or conditionally, upon the payment of costs, or may, on the facts, in its discretion, dismiss such proceedings on the payment of such part of the tax and costs as shall be just, in any case where it shall be satisfied that the person or persons taxed are unable, for want of property, or other reason, to pay any tax. In cases where any proceedings shall be dismissed under this section, on payment of a portion of the tax, a copy of the order of the court shall be filed with the receiver of taxes, and a note of the contents of such order entered upon the assessment roll, and it shall be the duty of said counsel to report all cases dismissed on account of the inability of the person to pay the tax to the commissioner of taxes and assessments, annually, on the thirty-first day of December in each year; and said commissioner is hereby authorized to strike the names of all such persons from the assessment rolls for the succeeding year.

Counsel to keep register, etc.

Sec. 935. The corporation counsel shall keep, in proper books to be provided by the corporation of said city for that purpose, a register of all actions or proceedings prosecuted, and upon the expiration of his term of office, or his resignation thereof or removal therefrom, the corporation counsel shall deliver to his successor in office all books and papers in his hands belonging to his office, or delivered to him by the receiver of taxes, or any marshal of said city, and in any way connected with his office, or any business pertaining thereto. The said counsel or any marshal shall pay over, under oath, to the receiver of taxes of said city, monthly, or oftener if required, all taxes collected by him.

Receiver; when may sue for personal taxes.

Sec. 936. Any tax duly imposed for personal property upon any person or corporation in the city of New York, and which shall remain unpaid and in arrears on the fifteenth day of January succeeding the year in which it shall have been imposed, may be recovered, with interests and costs, by the receiver of taxes of said city in the name of the city, in an action in any court of record in this state.

Sec. 937. All taxes and assessments levied before the first day of January, 1898, by lawful authority in any of the municipal and public corporations hereby consolidated, including the counties of Kings and of Richmond, and that part of the county of Queens included within the city of New York, as hereby constituted, and which shall remain due and unpaid on said first day of January, 1898, shall become and be due and payable to and collectible by said city, and all tax and assessment lists in the possession of any officer of any of said municipal and public corporations and counties, on the 31st day of December, 1897, shall be transmitted to and deposited with the controller on immediately after the first day of January, 1898, and the controller shall thereupon transmit the same to the collector of assessments and arrears for collection by suit, or under and pursuant to the laws in force when the said taxes were levied, or in force when this act taxes effect.

TITLE 2.

ASSESSMENTS FOR LOCAL IMPROVEMENTS OTHER THAN THOSE CONFIRMED BY A COURT OF RECORD.

Assessment—Term how construed.

Section 942. The word assessment, wherever used in this title and in the next succeeding one, shall be construed to mean an assessment for any local improvement which may be lawfully confirmed in any other manner than by a court of record.

Mayor to appoint a board of assessors; salary; subordinates.

Sec. 943. The mayor shall appoint five persons, who shall constitute the board of assessors. The salary of each member of said board shall be three thousand dollars a year. The said board shall be charged with the duty of making all assessments, other than those required by law to be confirmed by a court of record, for local improvements for which assessments may be legally imposed in any part of the city of New York as hereby constituted. The said board shall appoint a secretary and such clerks and subordinates as may be necessary, and shall fix their salaries, not exceeding in the aggregate the appropriation made for such purpose in the final estimate.

The secretary, clerks and subordinates of the board of assessors of the mayor, aldermen and commonalty of the city of New York shall be and act as secretary, clerks and subordinates of the board of assessors herein provided for until and unless they shall be removed or superseded by the last mentioned board of assessors.

The board of revision of assessments.

Sec. 944. The controller, corporation counsel and president of the board of public improvements shall constitute the board of revision of assessments. The said board, or a majority thereof, shall have and perform all the powers and duties relative to the revision, correction and confirmation of assessments specified in the various laws and ordinances relating to assessments in any part of the city of New York, as hereby constituted, other than assessments made by commissioners appointed by a court of record, and other than those confirmed by the board of assessors; said board shall have power to consider, on the merits, all objections made to any such assessment, and to subpena and ex-

amine witnesses in relation thereto, and to confirm said assessment, or to refer the same back to the board of assessors for revisal and correction in such respects as it may determine. The revision of such assessment shall be made without delay, so that unless the same are referred back for revisal and correction they shall be confirmed within thirty days from the time they shall, respectively, be presented for confirmation, and if not so confirmed or referred back they shall be deemed to be confirmed at the expiration of thirty days from the time they shall be, respectively, so presented for confirmation. All such assessments, immediately upon confirmation, shall be transmitted to the controller for entry and collection.

Powers of the two boards.

Sec. 945. In addition to the powers herein specifically conferred upon the board of assessors and the board of revision, the said boards shall have and exercise, as to the whole territory embraced in the city of New York, each and every power and authority conferred upon and exercised by the board of assessors, and the board of revision and correction of assessments, respectively, of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York.

Certificates on which assessments are made.

Sec. 946. All assessments shall be made by the board of assessors on the following certificates, to wit.:

1, The officer or head of the board or department charged with the execution of the work in question, shall certify to the board of assessors the total amount of all the expenses which shall have been actually incurred by the city of New York on account thereof.

2. The controller shall certify to the board of assessors the amount of the interest, at the legal rate, upon the several installments advanced or payments made on account of such work, from the time of such payment or advance, by the city, to a day sixty days after the date of such certificate. Thereafter the board of assessors shall assess upon the property benefited, in the manner authorized by law, the aggregate amount of such certificates, or such proportion thereof as is authorized by law, and the said board shall not in any way be enjoined, restrained, hindered or delayed in the performance of this duty, provided that nothing contained in this section shall be construed to affect the powers of the board of revision of assessments.

Assessment not to exceed one-half the valuation.

Sec. 947. The assessors shall in no case assess any house or lot, improved or unimproved lands, more than one-half the fair value of such house, lot, improved or unimproved lands.

Assessment for repaving: when forbidden.

Sec. 948. Unless it shall be petitioned for by a majority of the owners of the property (who shall also be the owners of a majority of the front feet), on a line of the proposed improvement, no assessment shall be imposed for the paving of any street, or any portion thereof, which has been once paved, and the expense thereof paid by the owners of the adjoining property. This section, however, shall apply only to the streets within the territory of the corporation formerly known as the mayor, aldermen and commonalty of the city of New York.

How property shall be described by the assessors.

Sec. 949. In all cases the assessors shall describe in the assessment the property assessed by the same ward or block numbers or other designations as shall be used to designate the said property on the tax books of the city of New York. They shall also describe the houses and lots assessed by their street numbers, if any. The assessors shall also state the name of the owner or owners and occupant or occupants, if they be known to the assessors, and it shall be their duty to ascertain, as far as may be, by inquiry from the commissioners of taxes and assessments or others, such ownership and occupation, and such commissioners shall afford the requisite information.

Notice of completion of assessments to be given.

Sec. 950. It shall be the duty of the board of assessors, when it has completed any proposed assessment, to give notice of the fact and that it is proposed to lay the same to the owner or owners; such notice shall be published daily in the City Record, and the corporation newspapers, for at least ten days successively. The notice shall describe the limits within which it is proposed to lay the said assessment, and shall contain a request for all persons whose interests may be affected thereby, and who may be opposed to the same, to present their objections, in writing, to the secretary of the assessors within thirty days from the date of such notice, and specifying a time and place after the expiration of the said thirty days when and where the said objections will be heard and testimony received in reference thereto. If, after hearing and examining such objections and testimony, the assessors shall not deem it proper to alter their assessment, or having altered it there shall still be objections to the same, it shall be their duty to present such objections with the proposed assessment to the board of revision of assessments.

If no objections shall be received, or if the board of assessors shall alter the assessment so as to satisfy the objectors, said board shall forthwith declare the said assessment confirmed, and shall transmit the same to the controller for entry and collection.

An assessment so confirmed shall be of the same force and effect as if confirmed by the board of revision.

Award of damages for changes of grade; liability in such cases.

Sec. 951. All cases where a change of grade of any street or avenue has been made prior to the taking effect of this act, shall, as to the liability to make compensation for damages caused by such change of grade, be governed by the laws in force at the time such change of grade was made. After the taking effect of this act there shall be no liability to abutting owners for originally establishing a grade; nor any liability for changing a grade once established by lawful authority, except where the owner of the abutting property has subsequently to such establishment of grade built upon or otherwise improved the property in conformity with such established grade, and such grade is changed after such buildings or improvements have been made. In such cases damages occasioned by such change of grade to such buildings and improvements shall be ascertained and assessed in connection with and as a part of the expenses of grading or otherwise improving the street or avenue in conformity with the grade as changed. A grade shall be deemed established by lawful authority within the meaning of this section where it was originally adopted by the action of the public authorities, or where the street or avenue has been use by the public as of right for twenty years and been improved by the public authority at the expense of the public or of the abutting owners.

All laws inconsistent herewith are hereby repealed.

In case the grade of any such street shall be changed, and the same shall have been regulated and graded according to the new grade, after the certificate of the cost of such regulating and grading shall have been received by the board of assessors, it shall be the duty of the said board to cause to be published in the City Record, and the corporation newspapers, for at least ten days successively, a notice which shall contain a request for all persons claiming to have been injured by the said change of grade to present, in writing, to the secretary of the board of assessors, their claims, specifying a place where and a time when the said board will receive evidence and testimony of the nature and extent of such injury.

After hearing and considering the said testimony and evidence the board of assessors shall make such awards for such loss and damage, if any, as it may deem proper. The amount of the said awards shall be included in the assessment for the regulating and grading of the street in question, as a part of the expense thereof, and the said award, and the proceedings of the assessors in relation thereto, shall be subject to review by the board of revision of assessments.

Foregoing section—how construed.

Sec. 952. The foregoing section shall not be construed to authorize the making of an award for loss or damage caused by change of grade in any case in which an award could not legally be made under laws existing immediately previous to the passage of this act, and affecting any part of the territory of the mayor, aldermen and commonalty of the city of New York nor shall it be construed to affect the powers of any commission acting under any laws of this state.

Awards—when to be paid; action for default.

Sec. 953. The city of New York shall, within four months after confirmation of any assessment, including awards made in pursuance of the last section but one, pay to the respective parties entitled thereto the amount of such awards, and in case of its neglect or failure to pay the same at the expiration of the said period, and after demand, it shall be lawful for the persons entitled to the same to sue for and recover the amount of their awards. In case any such award or compensation shall be paid to any person not entitled thereto, when the same ought to have been paid to some other person, it shall be lawful for the person to whom the same ought to have been paid to sue for and recover the same with interest and costs, as so much money had and received to his use by the person or persons respectively to whom the same shall have been so paid; provided that when the name or names of the owner or owners, party or parties, are not set forth in the report of the assessors, or where the said owners, parties or persons respectively being named therein shall be insane, a married woman, under the age of twenty-one years, or absent from the city, or after diligent search cannot be found, or their title to receive such awards disputed, it shall be lawful for the city of New York to pay the sum mentioned in said report, or that would be coming to such owners, parties and persons respectively, to the chamberlain, to be secured, disposed of and invested as the supreme court shall direct, and such payments shall be as valid and effectual in all respects as if made to the said owners, parties and persons respectively themselves, ac-

cording to their just rights, if they had been known and had been persons of full age, single women and of sound mind.

Assessments for depening water in docks, etc.

Sec. 954. The expense of conforming to any order or direction made in accordance with section 832 of this act, or of carrying the same into effect, shall be estimated and assessed by the board of assessors upon or among the owner or owners of any or every wharf, pier, dock, bulkhead, piece of land, water-right, or privilege, near or adjacent to which any such water may be deepened, and which may in any manner be benefited thereby, in proportion, as nearly as may be, to the advantage which each shall be deemed to acquire. Every such estimate and assessment, after confirmation, shall be binding and conclusive upon the owners thereby assessed respectively, and shall be a lien or charge upon the property or premises in respect to which the same may have been made.

TITLE 3.

VACATING AND MODIFYING ASSESSMENTS FOR LOCAL IMPROVEMENTS OTHER THAN THOSE CONFIRMED BY A COURT OF RECORD.

Remedies Limited.

Sec. 958. No suit or action in the nature of a bill in equity or otherwise shall be commenced for the vacation of any assessment in said city, or to remove a cloud upon title; but owners of property shall be confined to their remedies in such cases to the proceedings under this title.

Petition to the supreme court in case of fraud or substantial error.

Sec. 959. If in the proceeedings relative to any assessment or assessments for local improvements, or in the proceedings to collect the same, any fraud or substantial error shall be alleged to have been committed, the party aggrieved thereby may apply to a justice of the supreme court in special term or in vacation, who shall thereupon, upon due notice to the corporation counsel, proceed forthwith to hear the proofs and allegations of the parties. If, upon such hearing, it shall appear that the alleged fraud or substantial error, other than such errors as are specified in the next section, has been committed as provided in this title, the said assessment shall be vacated or modified, and the lien created thereby, or by any subsequent proceeedings, shall cease. If, upon such hearing, it shall appear that, by reason of any alleged irregularity, the expense of any local improvement has been unlawfully increased, the judge may order that such assessment upon the lands of said aggrieved party be modified by deducting therefrom such sum, as is in the same proportion to such assessment as is the whole amount of such unlawful increase to the whole amount of the expense of such local improvement. Any order that may be made by a justice under authority of this section shall be filed in the office of the county clerk of the county in which the lands are situated, and after the filing of a certified copy thereof with the officer having charge of the assessment, it shall be his duty to cancel or reduce the assessment, as required by the order, or do any other act required thereby.

Assessments not to be set aside for certain irregularities and technicalities.

Sec. 960. No assessment heretofore made or imposed, or which shall hereafter be made or imposed for any local improvement or other public work, already completed or now being made or performed, or which shall hereafter be made, done or performed, shall hereafter be vacated or set aside for or by reason of any omission to advertise, or irregularity in advertising any ordinance, resolution, notice, or other proceeding relative to or authorizing the improvement or work for which such assessment shall have been made or imposed or for proposals to do the work, or for or by reason of the omission of any officer to perform any duty imposed upon him, or for or by reason of any defect in the authority of any department or officer upon whose action the assessment shall be in any manner or to any extent dependent, or for or by reason of any omission to comply with or carry out any detail of any law or ordinance, or for or by reason of any irregularity or technicality, except only in cases in which fraud shall be shown and in case of an assessment for repaving any street or public place, upon property for which an assessment has once been paid for paving the same street or public place; and all property in said city benefited by any improvement or other public work already completed, or now being made or performed, and hereafter made, done or performed, except as aforesaid, shall be liable to assessment for such improvement or work and all assessments for any such improvement or other public work shall be valid and binding notwithstanding any such omission, irregularity, defect in authority or technicality. No assessment shall be vacated by reason of fraud or irregularity in the proceedings to collect the same by sale of the assessed premises; but upon proof of such fraud or irregularity, such sale shall be set aside and the respective rights and liabilites of the assessed person and of the city of New York shall become and be the same as if such sale had not been made.

All claims may be embraced in one proceeding.

Sec. 961. Any person applying for relief, under the provisions of this title, may embrace in one proceeding any or all assessments for local improvements in which he is interested.

Power of court to vacate or reduce assessments limited and qualified.

Sec. 962. No court shall vacate or reduce any assessment in fact or apparent, whether void or voidable, on any property for any local improvement, otherwise than to reduce any such assessment to the extent that the same may be shown by parties complaining thereof to have been in fact increased in dollars and cents by reason of fraud or substantial error; and in no event shall that proportion of any such assessment, which is equivalent to the fair value or fair cost of any actual local improvement, with interest at the rate of three per centum per annum from the date of confirmation to the date of the final order of reduction, and seven per centum thereafter, be disturbed for any cause.

The provisions of this section shall apply to actions to recover money paid for assessments, and the amount recovered shall be limited to the excess over the fair value or fair cost of the improvement.

When proceeding to vacate, etc., to be brought.

Sec. 963. All proceedings to vacate or reduce assessments in the city of New York must be brought within one year after the confirmation thereof.

Re-assessment.

Sec. 964. Any lands which may be discharged from any lien for an assessment for any local improvement may be again assessed, in the manner provided by law, for such amount as would have been justly chargeable if fraud or irregularity had not been committed; and the amount so assessed shall be a lien on said lands until paid, and shall be collectable in the manner provided by law for the collection of assessments; but all proceedings to make a new assessment shall be at the expense of the city.

TITLE 4.

OPENING STREETS AND PARKS.

Authority to open streets.

Sec. 970. The city of New York is authorized to acquire title for the use of the public to all or any of the lands required for streets, parks, approaches to bridges and tunnels, sites or lands above or under water for bridges and tunnels, and sites or lands above or under water, for all improvements of the navigation of waters within or separating portions of the city of New York, or of the water fronts of the city of New York or part or parts thereof, heretofore duly laid out upon the map or plan of the city of New York, of the City of Brooklyn, of Long Island City or of any of the territory by this act consolidated with the city of New York, or hereafter duly laid out upon the map or plan of the city of New York, as herein constituted, and to cause the same to be opened. The board of public improvements is authorized to direct the same to be done whenever and as often as it shall deem it for the public interests so to do. The lands, tenements and hereditaments that may be required for such purposes may be taken therefor, and compensation and recompense made to the parties and persons, if any such there shall be, to whom the loss and damage thereby shall be deemed to exceed the benefit and advantage thereof, for the excess of the damage over and above the value of said benefit.

The city of New York is authorized to make application, or to cause application to be made, to the supreme court of this state in the first or second judicial departments, as the case may be, for the appointment of commissioners of estimate and assessment to ascertain and determine the compensation and recompense which should justly be made to the respective owners, lessees, parties and persons respectively entitled unto or interested in the lands, tenements, hereditaments and premises, proposed to be taken for any of the purposes aforesaid, and to assess the cost of such improvement, or such proportion thereof as the board of public improvements directs, upon such parties and persons, lands and tenements as may be deemed to be benefited thereby. Streets or portions thereof which are continuations of each other in the same general direction may be embraced in the same proceeding. The moneys collected upon the assessment of the commissioners of estimate and assessment shall be paid into the city treasury. The damages awarded by the commissioners of estimate and assessment shall become due and payable immediately upon the confirmation of the report of said commissioners of estimate and assessment.

Removal of buildings.

Sec. 971. The board of public improvements may permit any building which shall be either partly or wholly included within the limits of any such street, or park laid out in the said city, and so to be opened as afore-

said, to remain unremoved for such time or times as they shall think proper.

Columbia college, St. John's college and University of the City of New York; streets not to be opened through grounds of.

Sec. 972. It shall be unlawful to open any streets through the grounds belonging to the corporation of St. John's college, in its actual occupation at what was formerly known as Fordham, or through or upon any part of the land and premises now owned by the University of the City of New York, extending from Sedgwick avenue to Aqueduct avenue, in the city of New York, and lying immediately south of and adjacent to One Hundred and Eighty-first street, sometimes called University avenue, so long as the same shall be owned or occupied for educational purposes by the said university; provided, however, that nothing in this section contained shall be construed to interfere with the opening of One Hundred and Eighty-first street, between Andrews avenue and Aqueduct avenue, at any time hereafter, and provided that the said University of the City of New York shall dedicate without claim or reward for damages all of the land required for East One Hundred and Eighty-first street, between Andrews avenue and Aqueduct avenue. No street from One Hundred and Sixteenth street to One Hundred and Twentieth street, or from Amsterdam avenue to the Boulevard, shall at any time be opened through the grounds of Columbia college, so long as such grounds are owned or occupied for educational purposes.

Application for the appointment of commissioners.

Sec. 973. Whenever the opening of any street shall have been duly authorized and directed, as provided in this act, it shall be the duty of the corporation counsel immediately to institute a proceeding to acquire title for the use of the public to the land required for such street, and upon due notice by advertisement duly published in the City Record and the corporation newspapers for ten days, and by causing copies of the same in handbills to be posted for the same space of time in three conspicuous places adjacent to the property to be affected by the intended improvement, to make application to the supreme court, in the appropriate department thereof within the city, and in the manner appropriate to proceedings for the appointment of commissioners of estimate and assessment, indicating in such application the land required for that purpose by reference to the maps on file in his office.

Upon such an application it shall be lawful for the said court to nominate and appoint three discreet and disinterested persons, being citizens of the United States, commissioners of estimate and assessment in said proceeding, for the performance of the duties in this chapter mentioned. The corporation counsel may nominate three discreet and disinterested persons to said court, of whom it may designate one who may be appointed. Any person who may be interested in the property which will be affected by the intended improvement, which interest for this purpose shall be decided by his own affidavit, stating the nature and extent of such interest, may present to the court the name of one or more persons whose names shall form a list out of which, if a majority in interest of the persons so interested shall agree upon the name of one person, that person may be appointed; but if a majority shall not agree upon one person, then the court may appoint a third person out of the names so presented by the corporation counsel and by the parties interested; all of which persons so named shall be subject to the right of challenge on the ground of interest, incapacity or disqualification, to be exercised by the corporation counsel or by any person having an interest in the said proceedings; and if any of them be rejected for good cause, or refuse to serve, then another may be nominated in his stead by the same party.

Amendment of defects.

Sec. 974. Said court shall have power at any time to amend any defect or informality in any special proceeding authorized by this title, that may be necessary, or to cause property to be affected thereby to be excluded, or other property to be included therein by amendment, upon ten days' notice published and posted as aforesaid, and to direct such further notices to be given to any party in interest as it deems proper, and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving, or be removed. If, in any particular, it shall, at any time be found necessary to amend any petition, pleading, proceeding or order, or to supply any defect therein, arising in the course of any special proceeding authorized by this title, the same may be amended or supplied in such manner as shall be directed by the supreme court, which is hereby authorized to make such amendments or corrections.

Vacancies among commissioners: how filled.

Sec. 975. In case of the death, resignation, refusal to act, or failure to qualify within ten days after his appointment of any such commissioner of estimate and assessment, to be appointed under and by virtue of this title, for any such aforesaid purpose, it shall and may be lawful for the court aforesaid, or of any of the justices thereof, on the application of the city, on notice only to any person interested who may have appeared on the prior application, as often as such event shall happen, to appoint a discreet and disinterested person, being a citizen of the United States, in the place and stead of such commissioner so dying, resigning, refusing to act, or failing to qualify, and the surviving or acting commissioners, as the case may be, shall have power to proceed in the execution of the duties of their appointment, until a successor of the commissioner so dying, resigning, or refusing to act, or failing to qualify, shall be appointed.

Two commissioners may act.

Sec. 976. In all and every case of the appointment of commissioners by the court aforesaid, for any of the purposes aforesaid, it shall be competent and lawful for any two of such said commissioners so to be appointed, to proceed to and execute and perform the trusts and duties of their said appointment, and their acts shall be as valid and effectual as the acts of all the commissioners so to be appointed for such said purpose if they had acted therein would have been. In all cases the acts, decisions, and proceedings of the major part of such of the commissioners to be appointed for any of the purposes aforesaid as shall be acting in the premises, shall always be as binding, valid and effectual as if the said commissioners named and appointed for such purpose had all concurred and joined therein.

Oath of commissioners.

Sec. 977. Commissioners when they are appointed and before they enter upon the performance of the duties of their appointment, shall severally take and subscribe before some person authorized by law to administer oaths, the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of commissioner according to the best of my ability." Such oath or affirmation shall be filed in the office of the clerk of the county in which the order appointing the said commissioners has been entered.

Commissioners to view and give notice of their appointment.

Sec. 978. It shall be the duty of the said commissioners when appointed in a proceeding, to view the lands, tenements and premises to be thereby acquired, and lands, tenements, hereditaments, and premises adjacent thereto, if they shall deem such view to be necessary or useful. They shall cause to be published in the City Record notice of their appointment, containing a brief statement of the purposes for which they have been appointed, and requiring all parties and persons interested in the real estate taken or to be taken for the purpose of opening, extending, enlarging, straightening, altering, or otherwise improving the said street or park affected thereby, and having any claim or demand on account thereof, to present the same to them duly verified, with such affidavit or other proof as the owners or claimants may desire, within twenty days after the date of such notice, and stating a time and place after the expiration of said twenty days when the said parties and persons shall be heard in relation thereto by the said commissioners. At the time and place fixed by said notice, or at any such further or other times and places as the said commissioners may appoint, the said commissioners shall hear such owners and examine the proof of such claimant or claimants, or such additional proof and allegations as may then be offered by such owners, or on behalf of the city of New York.

Certain powers of commissioners.

Sec. 979. It shall be lawful for the commissioners of estimate and assessment duly appointed in proceedings authorized by this title to administer oaths. And the said commissioners may, as a condition for the opening of a default, require the party applying therefor to pay the fees of the commissioners, and the clerical expenses of the commissioners for the additional meeting or meetings of the commissioners made necessary by the fault of such party. They shall reduce any testimony taken before them to writing. They may cause such maps or diagrams to be prepared, if they deem the same necessary, as will enable or assist them to hear and determine the claims or interests of the said owners and persons interested. From the surveys and maps furnished to or prepared by them and such other information as the said commissioners shall possess or obtain, they shall cause diagrams to be prepared which shall distinctly indicate, by separate numbers, the names of the owners or of the claimants to the respective plots or parcels of land to be taken or assessed by such proceeding, and which shall also specify, in figures, with sufficient accuracy, the dimensions and bounds of each said tracts or parcels.

The said commissioners, before the completion of their estimate and assessments, may obtain from the city of New York a profile or plan, if they shall deem the same useful, showing the intended regulation of the street, or part of a street, with regard to the opening of which they have been appointed, as to the elevation or depression thereof, after the

same shall be opened, extended, enlarged, straightened, altered, or otherwise improved, as the case may be; and also profiles or plans, if they shall deem the same useful, showing the intended regulation of the adjacent street or streets, as to the elevation or depression thereof, after such improvement.

The said commissioners may require any board, department, or officer of the city of New York to furnish to them such surveys and maps as may be required by them.

Commissioners to ascertain damages and benefit.

Sec. 980. After hearing such testimony and considering such proofs as may be offered, the commissioners, or a majority of them, all having considered the same, or having had an opportunity to be present, shall, without unnecessary delay, ascertain and estimate the compensation which ought justly to be made by the city of New York to the respective owners, lessees, parties and persons respectively entitled unto or interested in the lands, tenements, hereditaments and premises so required for the improvement; and make a just and equitable estimate and assessment also of the value of the benefit and advantage of such improvement to the respective owners, lessees, parties and persons respectively entitled unto or interested in the lands, tenements, hereditaments and premises not required for the said improvement, and prepare an abstract of their estimate and assessment. They shall not, in making their estimate and assessment of the value of the benefit and advantage of the said improvement, be confined to any definite limit, but shall and hereby are authorized to extend such estimate and assessment to any and all such lands, tenements and hereditaments and premises as they may deem to be benefited by the improvement, and which they may judge expedient to include in their report in the premises. The board of public improvements may in any case determine whether any, and, if any, what proportion of the cost and expense thereof shall be borne and paid by the city of New York, and the remainder of such cost and expense shall be assessed upon the property deemed to be benefited thereby.

The said commissioners shall in no case assess any house, lot, improved or unimproved lands, more than one-half the value of such house, lot, improved or unimproved land, as valued by them. It shall be lawful for the said commissioners, if they shall deem it just and equitable under the circumstances to do so, but not otherwise, to assess any part, not exceeding one-third part of the estimated value of any building or buildings taken in the proceeding, but not of any other improvement, upon the city of New York. If the said commissioners of estimate and assessment shall judge that any intended regulation will injure any building or buildings not required to be taken for the purpose of opening, extending, enlarging, straightening, altering, or improving such street or part of a street, they shall proceed to make, together with the other estimates and assessments required by law to be made by them, a just and equitable estimate and assessment of the loss and damage which will accrue, by and in consequence of such intended regulation, to the respective owners, lessees, parties and persons, respectively, entitled unto or interested in the said building or buildings so to be injured by the said intended regulation; and the sums or estimates of compensation and recompense for such loss and damage shall be included by the said commissioners in their report and included in the assessment for benefit.

Abstract of estimate and assessment to be deposited.

Sec. 981. The said commissioners shall deposit in the bureau of street openings in the law department their said abstract of their estimate and assessment at least thirty days before their report shall be presented to the court for confirmation, which abstract shall be accompanied by copies of the diagrams used by them and which shall refer to the numbers thereby indicated, and state the several sums respectively estimated for or assessed upon each of said parcels with the name or names, claimant or claimants, so far as ascertained by said commissioners. They shall also deposit all the affidavits and proofs used by them in making their report. They shall also publish a notice for fifteen days in the City Record and in the corporation newspapers, and when authorized pursuant to this act, in not more than one newspaper published in the borough in which the property is located, stating their intention to present their report for confirmation to the said court at a time and place to be specified in said notice, and that all persons interested in such proceedings or in any of the lands affected thereby, having objections thereto, shall file the same, in writing, duly verified with said commissioners within twenty days after the first publication of said notice, and that the said commissioners will hear parties so objecting at a place and at a time after the expiration of said twenty days, to be specified in said notice. Similar notice for at least ten days shall be given of any new, supplemental or amended abstract. At the time and place named in said notice the said commissioners shall hear the person or persons who have objected to the said abstract, and who may then and there appear, and shall have power to adjourn from time to time until all such persons shall be fully heard.

Amendment of abstract.

Sec. 982. It shall not be lawful for commissioners of estimate and assessment to alter or amend any abstract or report, or supplemental or amended abstract or report, after the same shall have been deposited for inspection as required by law, by increasing the amount of any assessment for benefit, or diminishing any award for damage, unless the person or persons, party or parties, affected by such increase or diminution shall have had notice thereof and an opportunity of being heard before said commissioners before their report shall be presented to the court for confirmation.

Witness; how compelled to testify.

Sec. 983. Upon the application of any person or persons whose rights may be affected by the said estimate or assessment, verified by the oath or affirmation of such applicant or his agent, that any witness, residing or being in the city of New York, whose affidavit to verify or oppose any objection to the said estimate or assessment is material or necessary to such party, refuses voluntarily to appear before any officer authorized to take such affidavit, to testify or affirm to such matter as he may know, touching such objection, any one of the said commissioners of estimate and assessment in the proceeding may issue a subpena, under his hand, requiring such witness to appear and testify to such matters as he may know touching the said estimate or assessment, at such time and place as the said commissioner may designate in such subpena. And every person, who, being served with such subpena, shall, without reasonable cause, refuse or neglect to appear, or appearing, shall refuse to answer, under oath or affirmation, touching the matters aforesaid, shall forfeit to the party injured one hundred dollars; and may also be committed to prison by any justice of the supreme court upon application duly made on behalf of the commissioner who issued such subpena, there to remain, without bail and without the liberites of the jail until he shall submit to answer, under oath or affirmation as aforesaid. The testimony of such witness when given shall be reduced to writing in the presence of and be sworn or affirmed to before such commissioner.

Commissioners to present report to court.

Sec. 984. After considering the objections, if any, and making any correction or alteration of their estimate or assessment, which said commissioners, or any two of them shall find to be just and proper, the said commissioners shall file the said report, signed by them or a majority of them, in the office of the clerk of the county where the lands are situated at least five days before the time mentioned in said notice for the presentation of said report to the court for confirmation, or the date to which the same shall have been duly adjourned. The said commissioners, or any person interested in said proceeding, shall notify the corporation counsel and all persons who have filed their objections as aforesaid, or who have theretofore appeared as soon as the said report shall have been filed. The corporation counsel may present the same for confirmation, or, in case of his neglect or refusal, any person interested in the lands taken or required for said improvement may present the same, upon notice to the corporation counsel.

Report: what to contain.

Sec. 985. The report of the commissioners shall consist of the diagram hereinbefore referred to, duly corrected, when necessary, with a tabular abstract of the estimate and assessment, with any corrections or alterations thereof by said commissioners, showing fully and separately to the said court the amount of loss and damage, and of benefit and advantage to each and every owner, lessee, party and person entitled or interested in any lands, tenements, hereditaments or premises affected by the improvement. In said report the commissioners who shall make the same shall set forth the names of the respective owners, lessees, parties and persons entitled unto or interested in the said lands, tenements, hereditaments and premises mentioned in the said report, and each and every part and parcel thereof, as far forth as the same shall be ascertained by them, and an apt and sufficient designation or description of the respective lots or parcels of land and other tenements, hereditaments and premises that may be required for the purpose of opening such street or park, or part thereof so to be opened, or laying out and forming or extending and enlarging or otherwise improving such street or park so to be laid out and formed, or so to be extended, enlarged or otherwise improved, as the case may be, and also of the said respective lots or parcels of land and other tenements, hereditaments and premises not included within, but deemed to be benefited by the same, and so assessed by the said commissioners for the said benefit as aforesaid. It shall refer to the number of the tracts and parcels indicated by said diagrams, and state the several sum respectively estimated for or assessed upon each of said tracts or parcels, with the name or names of the owners or claimants of each, if ascertained by said commissioners. Whenever the said commissioners shall be unable to ascertain with suf-

ficient certainty the name of any owner of any parcel of said lands, they shall indicate such parcel upon the diagram embracing it, as belonging to unknown owners. It shall not be necessary in said report to describe any of the said tracts or parcels by metes and bounds, but only by reference to the said diagrams. It shall also set forth the several and respective sums estimated and assessed as and for the compensation and recompense or the allowance to be made for the loss and damage, or for the benefit, as the case may be, of the respective owners of the fee or inheritance of such lands, tenements, hereditaments and premises respectively, and for the loss and damage, or for the benefit, as the case may be, of the respective owners of the leasehold estates or other interest therein separately; but in all, and each and every case and cases where the owners and parties interested, or their respective estates and interest are unknown, or not fully known to the said commissioners, it shall be sufficient for them to estimate and assess and to set forth and state in their said report, in general terms, the respective sums to be allowed and paid to or by the owners and proprietors generally of such said lands, tenements, hereditaments and premises, and parties interested therein for the loss and damage, or for the benefit and advantage, as the case may be, to such owners, proprietors and parties interested in respect of the whole estate and interest of whomsoever may be entitled to, unto or interested in the said lands, tenements, hereditaments and premises, respectively, by and in consequence of the said operation and improvement of opening, laying out and forming or extending, enlarging or otherwise improving the said street or park or section thereof so to be opened or so to be laid out and formed or extended, enlarged or otherwise improved, as the case may be, without specifying the names of the estates or interests of such owners and proprietors and parties interested, or of any or either of them. Said commissioners of estimate and assessment may, in their discretion, or when required by the board of public improvements make up and file a preliminary abstract of their estimate of damages, separate and apart from their estimate of assessments for benefit, embracing either the entire lands, tenements, hereditaments and premises to be acquired or successive sections or parcels thereof, and ascertain and estimate the compensation to be made thereon and make a separate report with reference thereto. Such separate or partial report shall be made in the same form and manner and such proceedings shall be had in respect thereto as in respect to the report of the commissioners relative to the entire lands taken and assessed as herein provided for, except that the final or last separate report shall contain the assessment for benefit.

Proceedings upon presentation of report for confirmation.

Sec. 986. The application for the confirmation of the report shall be made to the supreme court at a term thereof held within the city of New York as constituted by this act, and in the judicial department within which the lands are situated. Upon the coming in of the said report, signed by the said commissioners, or any two of them, and upon the hearing of the application for the confirmation thereof, if title to said lands shall not have been theretofore vested in the city of New York, or if said lands are not being condemned for a public park, parkway, public square or place, and if persons who appear by the said report to be interested, either by assessment for benefit or award for damages, to the amount of a majority in amount of the whole assessments and awards, shall appear and object to further proceedings upon the said report, the court shall order the proceeding to be discontinued; otherwise the said court shall by rule or order, after hearing any matter which may be alleged against the same, either confirm the said report in whole, or in part, or refer the same, or a part thereof, to the said commissioners for revisal and correction, or to new commissioners, to be appointed by the said court to reconsider the subject matter thereof, and the said commissioners to whom the said report or part thereof shall be so referred shall return the same report or such part thereof, corrected and revised, or a new report to be made by them in the premises to the said court without unnecessary delay; and the same on being so returned shall be confirmed or again referred by the said court in manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made or returned in the premises, which the said court shall wholly confirm, and such report, when so confirmed by the said court, shall, unless set aside or reversed on appeal, be final and conclusive, as well upon the city of New York as upon the owners, lessees, persons and parties interested and entitled unto the lands, tenements, hereditaments and premises mentioned in the said report; and also upon all other persons whomsoever.

Duplicate copies of report to be filed.

Sec. 987. Duplicate copies of said report signed by the said commissioners, or any two of them, shall be filed by the corporation counsel of said city, one in the office of the controller, and the other in the office of the clerk of the supreme court, where the order confirming said report is entered.

Appeals.

Sec. 988. The city of New York or any party or person affected by the said proceeding and aggrieved by the said report when confirmed as aforesaid, may appeal to the appellate division of the said court. Such appeal shall be taken and heard in the manner provided by the code of civil procedure and the rules and practice of the said court in relation to appeals in special proceedings, and such appeal shall be heard and determined by such appellate division upon the merits both as to matters of law and fact. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this act, except as to the particular parcel of real estate with which the appeal is concerned; and the order confirming the said report shall be deemed to be final and conclusive upon all parties and persons affected thereby who have not appealed. Such appeal shall be heard upon the evidence taken before the said commissioners, or such part or portion thereof as the court at special term may certify, or the parties to said appeal may agree upon as sufficient to present the merits of the questions in respect to which such appeal shall be had, and on affidavits as to irregularities which have been presented to the court at special term upon the coming in of such report of said commissioners. When an order confirming a report shall be reversed upon appeal, the commissioners to whom such report shall be referred for amendment, correction, or revisal, shall have power to make such additional assessment as may be necessary.

Appeal to court of appeals authorized.

Sec. 989. An appeal to the court of appeals may be taken by the city or any person or party interested in the said proceeding and aggrieved by the order of the appellate division.

Such appeal may be taken within sixty days and heard in the manner provided by the code of civil procedure and the rules and practice of the court of appeals, in relation to appeals in special proceedings. The court of appeals may affirm or reverse the order appealed from, and may make such order or direction as shall be appropriate to the case, whether for a rehearing of the same before the commissioners, or for final confirmation of the report or otherwise. If the report is confirmed the court of appeals shall enter a final order in the proceedings which shall be binding upon all persons having any interest in the property or franchises condemned, and directing that compensation be made, pursuant to the determination of the commissioners, and the city shall thereupon be entitled to take and hold forever the property and franchises condemned for the public use. Payment of the compensation into the court to the credit of any person or corporation mentioned in said order, in case tender thereof shall have been refused by such person or corporation, shall be deemed a payment within the provisions of this act.

Vesting of title.

Sec. 990. Should the board of public improvements at any time deem it for the public interest that the title to the lands and premises required for any street or park heretofore or hereafter laid out, widened, altered, extended or otherwise improved, should be acquired by the city of New York at a fixed or specified time the said board of public improvements may direct, by resolution, where no buildings are upon such lands, that upon the date of the filing of the oath of the commissioners of estimate and assessment, as provided for in this chapter, or upon a specified date thereafter, and where there are buildings upon such lands, that upon a date not less than six months from the date of the filing of said oath, the title to any piece or parcel of land lying within the lines of any such street or park, shall be vested in the city of New York. Thereafter, when the said commissioners shall have taken and filed said oath, upon the date of such filing or upon such subsequent date as may be specified where no buildings are upon such lands, and where there are buildings upon such lands upon the date specified by said board of public improvements, either before or after the filing of such oath, the same being not less than six months from the date of said filing, the city of New York shall become and be seized in fee of said lands, tenements and hereditaments in the said resolution mentioned, that shall or may be so required as aforesaid, the same to be held, appropriated, converted and used to and for such purpose accordingly, in like manner as are other public streets and parks, respectively, in the said city. In such cases interest at the legal rate upon the sum or sums to which the owners, lessees, parties or persons are justly entitled upon the date of the vesting of title in the city of New York as aforesaid, from said date to the date of the report of the commissioners shall be allowed by the commissioners as a part of the compensation to which such owners, lessees, parties or persons are entitled. In all other cases, title, as aforesaid, shall vest in the city of New York upon the confirmation by the court of the report of the commissioners. Upon the vesting of title the city of New York, or any person or persons acting under its authority, may immediately, or at any time thereafter, take possession of the same, or any part or parts thereof, with-

out any suit or proceeding at law for that purpose.

The title acquired by the city of New York to lands and premises required for a street shall be in trust, that the same be appropriated and kept open for, or as part of a public street, forever, in like manner as the other streets in the city are, and of right ought to be. The title acquired by the city of New York to lands and premises acquired for a park shall be a fee simple absolute.

Within what time proceedings to be completed: removal of commissioners.

Sec. 991. The commissioners appointed, in pursuance of this title, shall complete said proceedings on their part within six months from the time of their appointment, unless further time be allowed by the supreme court. At least five days' notice of the application for such extension shall be given by the corporation counsel to all persons who have appeared in said proceedings, and have specially requested that notice of any such application be served upon them. Upon such application the court shall have power to make such order in the premises in respect to the time and manner of completing the report of said commissioners, and in respect to the taking and submission of the proofs of the parties interested, as will enable or require the commissioners to complete said proceeding on their part with reasonable dispatch; and if it shall appear that the said proceeding has been delayed by reason of the inattention, neglect or refusal of said commissioners, or any of them, to act or attend, or of the failure of a majority of them to agree upon a report, the court may remove the commissioner or commissioners so neglecting or refusing, or the commissioners failing to agree, and appoint a suitable person or persons in his or their place. And the said court may, at any time, remove any of said commissioners of estimate and assessment who, in its judgment, shall be incapable of serving, or who shall, for any reason, in its judgment, be an unfit person to serve as such commissioner. The cause of such removal shall be specified in the order making the same.

Owners may convey to the city.

Sec. 992. The owners of land and of all real estate therein embraced within the lines of any street laid down and shown on the map or plan of the city of New York and comprising all the land within said lines in an entire block in extent, may, without compensation, and at their own expense, convey all their right, title, and interest therein, providing the same shall be free from incumbrances inconsistent with the title to be acquired by the city, to the city of New York, and upon the delivery of such conveyances to the corporation counsel of said city, with the money necessary to record such conveyances, and affidavits made by all such owners to the effect that the persons making them are the owners of the estates in such lands so conveyed by them, respectively, and stating their interests, and that such estates in such lands are free of all incumbrances, except as aforesaid, together with abstracts of title and complete searches, if desired by such corporation counsel, it shall be the duty of such corporation counsel to examine such conveyances and papers, and if such titles shall not be rejected for good cause, by such corporation counsel, he shall cause the said conveyances to be recorded in the office in which conveyances of real estate are recorded in the county in which such lands are located, within sixty days after their delivery to him, and file them with the controller of such city, and thereupon the city of New York shall become vested with the title to said lands to the same effect and extent as if they had been acquired by a proceeding taken for the opening of that portion of said street; after the making and acceptance of such conveyances, no proceedings to open the lands so conveyed shall be taken or maintained, nor shall the lands fronting on that portion of the street so conveyed, and extending to the center of the block on either side of such portion of said street so conveyed, be chargeable with any portion of the expenses of opening the residue or any portion of the residue of such street, except the due and fair proportion of the awards that may be made for buildings as aforesaid.

Subdivision of plots.

Sec. 993. If, at any time after the filing of the maps showing the laying out of streets by proper municipal authority, the owner or owners of any plot of land bounded on all sides by streets, and not laid out as and for a public square, place or park, shall desire to subdivide such plot and give public right of way into or through such plot, he, she or they may submit two sets of maps, plans or surveys of such plot and of such proposed right of way, showing the width, which shall not be less than thirty feet, and the location, extent and direction of the same, and the proposed grade therefor, to the board of public improvements, for approval, and if the same shall be approved and the owner or owners aforesaid shall immediately thereafter convey in such form as shall be approved by the corporation counsel, the title to the land required for such right of way, free and clear from all incumbrances, to the city of New York in trust as and for a public street, the same shall from that time be and become an opened public street, the same as if it had been laid out and opened as other streets are, or ought to be, and the maps, plans or surveys thereof, and of the grades therefor, aforesaid, shall immediately thereafter be certified by the city clerk, and one set thereof shall be filed in and remain of record in the office in which conveyances of real estate are recorded in the county in which such land is located, and the other set thereof in the office of the corporation counsel of said city.

City may agree with owners.

Sec. 994. It shall be lawful for the city at any time or times, either before or after the appointment of commissioners in the premises, for any of the purposes aforesaid, to agree with the owners, lessees, parties or persons entitled unto or interested in the lands, tenements, hereditaments and premises, that either will be benefited by, or may be required for the purpose of, making the operation and improvement intended to be made, or with any or with either of such owners or other parties interested therein, for and about the cession of the lands, tenements, hereditaments and premises required of him, her or them, respectively, for the purpose of making such said intended operation and improvement, and for and about the compensation and recompense to be made to him, her or them, for the same, or for and about the allowance, or sum or sums to be allowed and paid by such owners and parties, respectively, or by any, or either, of them, for the benefit and advantage of the street or park or section thereof so to be opened, or laid out and formed, or the extension, enlargement or other improvement of the street or park so to be extended, enlarged or otherwise improved, to him, her or them, over and above the value of the lands, tenements, hereditaments, and premises, that may be required if any lands, tenements, hereditaments or premises shall be required of him, her or them, for the purpose of opening, laying out, and forming or extending, enlarging or otherwise improving the same, and in case of any such agreement or agreements, with part only of the said owners and parties entitled unto and interested in the said lands, tenements, hereditaments and premises so required for the purpose of making any such operation and improvement as aforesaid, or to be benefited thereby, the same shall be valid and binding upon the parties thereto, and the said commissioners shall, nevertheless, enter upon and make or proceed with their said estimate and assessment, and make report to the said court, as to the residue of the said lands, tenements, hereditaments and premises required for the said purpose of making such said operation and improvement, or to be benefited thereby, concerning which the owners thereof and parties interested therein shall not agree; and the said report, when confirmed, shall be of like force and effect in regard to the matters comprised therein, as if no such agreement as to the part of the premises had been made.

City entitled to compensation and liable to assessment.

Sec. 995. If any lands, tenements, hereditaments or premises belonging to the city of New York, or wherein it may be interested, shall be required for any of the purposes aforesaid, or shall be benefited by any such operation and improvement as hereinbefore mentioned, the city shall be entitled to compensation and recompense for the loss and damage it may sustain, and shall be bound to allow and pay for the benefit and advantage it may be deemed to acquire thereby, in like manner as other owners and proprietors of lands and premises required for the purpose of making the said operation and improvement, or deemed to be benefited thereby; and it shall be lawful for the said commissioners of estimate and assessment, and they are hereby directed in such, each and every case, to estimate and assess upon the principles and in the manner herein aforesaid; and to report the sum or sums which, in their opinion, ought to be allowed and paid to or by the city for the said loss and damage, or for the said benefit or advantage, as the case may be, to the city, by and in consequence of such said operation and improvement of opening the said street or park, or section thereof so to be opened, or laying out, or forming, or extending, enlarging, or otherwise improving the same, so to be laid out and formed, or extended, enlarged or otherwise improved as the case may be. It shall not, however, be lawful to lay or impose any assessment whatever on any public park, square or place, or street, road or avenue, but all such assessments which may be properly payable by the city shall be assessed against it in a gross sum in each and every of such proceedings.

Contracts of landlord and tenant: how affected.

Sec. 996. In all cases where the whole of any lot or parcel of land or other premises, under lease or other contract, shall be taken for any of the purposes aforesaid, by virtue of this title, all the covenants, contracts and engagements between landlord and tenant or any other contracting parties touching the same, or any part thereof, shall, upon the vesting of the title in the city of New York, cease and determine and be absolutely discharged; and in all cases where part only of any lot or parcel of land, or other premises, so under lease or other contract, shall be so taken for any of the purposes aforesaid, all contracts and engagements respecting the same shall, upon such vesting of title, cease, determine and be absolutely discharged as to

the part thereof so taken, but shall remain valid and obligatory as to the residue thereof, and the rents, considerations and payments reserved or payable, and to be paid, for or in respect to the same, shall be so apportioned as that the part thereof justly and equitably payable, or that ought to be paid, for such said residue thereof, and no more shall be demanded or paid, or recoverable, for or in respect of the same.

Corporation counsel to represent interests of city before commissioners, and provide clerks and offices: expenses.

Sec. 997. It shall be the duty of the corporation counsel to furnish the commissioners of estimate and assessment who may be appointed in any proceeding to open, widen, extend, alter or close any street, park or parkway in said city, such necessary clerks and other employes, and to provide such suitable offices as they may require to enable them to fully and satisfactorily discharge the duties imposed upon them by this chapter; the corporation counsel shall, either in person or by such assistant or counsel as he shall designate for the purpose, appear for and protect the interests of the city in all proceedings in court and before the commissioners. All expenses for searcher's or surveyor's fees, and such other necessary expenses and disbursements which the city of New York shall incur under the provisions of this section shall be paid by the controller out of the fund for street and park openings, provided for by existing laws, and shall be borne and reimbursed and paid to the city of New York by the parties and persons interested and entitled, as owners or otherwise, unto and in the lands, tenements, hereditaments and premises deemed to be benefited thereby, and the same shall be included in and taxed by the court, upon due proof of the services rendered, and disbursements charged as part of the necessary costs and expenses of the said proceedings; but such expenses and disbursements shall not be included in the assessments for benefit until after they have been taxed before a justice of the supreme court, in the appropriate department.

Other costs and charges.

Sec. 998. Except as hereinbefore otherwise provided, no costs or charges of the said commissioners or others shall be paid or allowed for any service performed under this title, unless the same shall be taxed by the said court after notice given as provided in the following section. Upon such taxation, due proof of the nature and extent of the services rendered and disbursements charged shall be furnished, and no unnecessary cost or charges shall be allowed. Each of the commissioners of estimate and assessment shall receive six dollars for each day upon which the said commissioners shall meet and be actually and necessarily employed in the performance of the duties imposed upon them by this act. All such costs, fees and expenses or disbursements, which by law are required to be taxed as in this chapter provided, shall be stated in detail in the bill of costs and charges and expenses, and shall be accompanied by such proof of the reasonableness and necessity thereof, as is now required by law and the practice of the said court upon taxation of costs and disbursements in other special proceedings or actions in said court; provided, however, that in any proceeding of an unusually difficult or extraordinary character, the said court, may, upon taxing said costs or expenses, make such additional allowances to the said commissioners as may to it appear just and equitable, upon such proof as may be submitted of the nature and extent of the services rendered by said commissioners.

Taxation of costs.

Sec. 999. A bill of said costs, charges and expenses shall be filed in the office of the clerk of the county in which the order appointing the said commissioners has been entered, at least ten days before the same shall be presented for taxation. There shall be annexed a statement of the amounts, if any, previously taxed, to whom the same were payable, and the date of such taxation. A notice of at least ten days shall be published in the City Record, and the corporation newspapers, and served upon the corporation counsel, of the time and place of taxing said costs, charges and expenses, which shall be thereupon taxed by a justice of the supreme court, or a referee under his special order, and before the report of said commissioners shall be presented for confirmation. On said final taxation there may be a retaxation of any bill previously taxed in the same proceeding, if sufficient reason therefor be made to appear.

Discontinuance of proceedings.

Sec. 1,000. The board of public improvements is authorized and empowered to discontinue any and all legal proceedings taken for opening, widening, straightening, extending, altering, or closing streets or parks, or parts thereof, at any time before title to the lands and premises to be thereby acquired shall have vested in the city of New York, if, in its opinion, the public interest requires such discontinuance, and with power to cause new proceedings to be taken in such cases for the appointment of new commissioners.

Damages for land taken: when to be paid.

Sec. 1,001. All damages awarded by the commissioners of estimate and assessments with interest thereon from the date of said report, and all costs or expenses which may be taxed, shall be paid by the city of New York to the respective persons and bodies politic or corporate mentioned or referred to in said report, or in whose favor such costs or expenses shall be taxed. Interest shall cease to run on sums awarded as damages six months after the date of the confirmation of said report unless within that time demand therefor be made upon the controller. Said damages, costs, and expenses shall be paid from the fund for street and park openings provided for in this act, and by existing laws. The person or persons to whom awards shall be made in such proceedings, and the person or persons in whose favor costs and expenses may be taxed, shall not have an action at law against the city of New York for such awards, costs, or expenses, but the court in which said proceedings have been had, upon the application of any such person or persons, in case of the failure of the controller of said city to pay the same within thirty days after demand therefor, shall require and direct the controller to pay said awards, costs, and expenses from the said fund, and enforce said order or mandate in the same manner as other orders and mandates of said court are enforced. Provided, however, that whenever the amount of damages awarded in any report, together with the costs of the commissioners, shall exceed the balance remaining in said fund after deducting all outstanding claims against said balance, the controller shall and he is hereby authorized to raise, by the issue and sale of revenue bonds, such amounts as shall be necessary to pay such damages, costs, and expenses, and said court, upon the application of any person or persons in whose favor, or to whom awards shall be made in such proceeding, and the person or persons in whose favor costs and expenses may be taxed, may require or direct the controller to raise the money necessary to enable him to pay such awards, costs and expenses, and from such fund to pay the same, except that when any sum or sums shall in said report be made to unknown owners, the supreme court shall, upon the application of said city of New York, or of any person entitled to, or claiming to be interested in the lands, tenements, or hereditaments for which said awards have been made, or any part thereof, either direct the same to be retained by the controller, or to be paid into the suprem court, until the title thereto, or of the respective estates and interests of all parties therein shall be determined by said court, and upon such application, the said court may take the proof and testimony of the claimant or claimants, or parties interested in the lands for which said awards have been made, or refer the matter to a referee for such purpose.

Moneys of persons under disability; how disposed of; moneys paid to wrong person.

Sec. 1,002. Whenever the owners and proprietors of any such lands, tenements, hereditaments and premises so to be taken for any of the purposes aforesaid, or the party or parties, person or persons interested therein, or any, or either of them, the said owners, proprietors, parties or persons in whose favor any such sum or sums, or compensation shall be so reported, shall be under the age of twenty-one years, non compos mentis, femme covert, or absent from the city of New York, and also in all cases where the name or names of the owner or owners, parties or persons entitled unto or interested in any lands, tenements, hereditaments or premises that may be so taken for any of the purposes aforesaid, shall not be set forth or mentioned in the said report, or where the said owners, parties or persons, respectively, being named therein, cannot upon diligent inquiry be found, it shall be lawful for the city to pay the sum or sums mentioned in the said report, payable, or that would be coming to such owners, proprietors, parties and persons, respectively, into the said supreme court, to be secured, disposed of and improved as the said court shall direct, and such payment shall be as valid and effectual, in all respects, as if made to the said owners, proprietors, parties and persons, respectively, themselves, according to their just rights, as if they had been known and had all been present, of full age, discovert and compos mentis; and, provided also, that in all and each and every case and cases where any such sum or sums, or compensations, so to be reported by the said commissioners in favor of any person or persons, or party or parties whatsoever, whether named or not named in the said report, shall be paid to any person or persons, or party or parties whomsoever, when the same shall of right belong, and ought to have been paid, to some other person or persons, or party or parties, it shall be lawful for the person or persons, or party or parties, to whom the same ought to have been paid, to sue for and recover the same, with lawful interest and costs of suit, as so much money had and received to his, her or their use, by the person or persons, party or parties, respectively, to whom the same shall have been so paid.

Sums to be equally and proportionately assessed.

Sec. 1,003. All moneys paid under the provisions of this title by the city, except such part thereof as the board of public improvements shall direct to be borne and paid by the city of New York, shall be assessed equally and proportionately, as far as the same may be practicable, upon the lands and premises

benefited by the improvement, and shall be a lien and charge thereon, and shall be applied, levied and collected in the manner provided by law for the assessment, levy and collection of similar expenses and disbursements for the reimbursement of the city treasury.

Sums assessed to be liens.

Sec. 1,004. The respective sums or assessments so to be assessed and reported by the said commissioners of estimate and assessment, as and for the allowance to be made by the parties and persons, respectively, in the said report mentioned or referred to, and intended as owners and proprietors of, or parties interested in, lands and premises deemed to be benefited, for the benefit and advantage of the street or park or section thereof, or of the extension, enlargement, or other improvement of the street or park mentioned in the said report, shall be a lien or charge on the lands, tenements, hereditaments, and premises, in the said report of the said commissioners mentioned, or upon the estate and interests of the respective owners, lessees, and parties interested in such said lands, tenements, hereditaments, and premises for or on account of which the said respective sums shall be so assessed by the said commissioners upon the said respective owners and proprietors thereof, or parties interested therein. The owners, proprietors and parties interested therein, and also the occupants, and each and every of them, shall, moreover, be respectively liable to pay on demand the respective sum or sums or assessments mentioned in the said report of the commissioners, at which the respective lands, tenements, hereditaments and premises so owned or occupied by him, her, or them, or wherein he, she, or they are so interested, or at which the owners and proprietors thereof shall be so assessed, to such person or persons as the city shall appoint to receive the same. The said respective sums or assessments, with interest as in this act provided, may be recovered with all costs and charges by the city from and against the parties assessed, or the owner or owners of the respective lands, tenements, hereditaments and premises whereon or in respect of which the same may be assessed, or set forth in the said report of the commissioners, or from or against any or either of the said parties or owners, without joining any other or others of them, the said parties or owners therein, by action; provided, that nothing herein contained shall affect any agreement between landlord and tenant, or any other contracting parties respecting the payment of any such assessment or charges, but they shall be answerable to each other in the same manner as if the provisions in this title contained concerning the same had never been made; and if any money so to be assessed be paid by or collected or recovered from any person or persons when by agreement or by law the same ought to have been borne and paid by some other person or persons, it shall be lawful for the person or persons paying the same, or from whom the same shall be recovered, by suit or otherwise, to sue for and recover the money so paid by or recovered from him or them, with interest and costs, as so much money paid for the use of the person or persons who ought to have paid the same, and the said report of the commissioners, with proof of payment, shall be conclusive evidence in such suit.

Controller to publish notice of confirmation of assessment, etc.

Sec. 1,005. It shall be the duty of the controller to give public notice by advertisement for at least ten days in the City Record, and the corporation newspapers, immediately after the confirmation of any assessment for a street or park opening, that the same has been confirmed, specifying the title of such assessment, the date of its confirmation by the supreme court, and also the date of entry in the record of titles of assessments kept in the bureau for the collection of assessments and of arrears of taxes and assessments, and of water rents, notifying all persons, owners of property affected by any such assessment, that, unless the amount assessed for benefit on any person or property shall be paid within sixty days after the date of said entry of any such assessment, interest shall thereafter be collected thereon as provided in the following section; and all provisions of law or ordinance requiring any other or different notice of assessments and interest thereon are repealed.

Interest to be charged if not paid in sixty days.

Sec. 1,006. If any such assessment shall remain unpaid for the period of sixty days after the date of entry thereof in the said record of titles and assessments, it shall be the duty of the officer authorized to collect and receive the amount of such assessment, to charge, collect and receive interest thereon, at the rate of 7 per centum per annum; to be calculated from the date of such entry to the date of payment.

Interest limited to excess in certain cases.

Sec. 1,007. Whenever an estimate and assessment for loss and damage, and for benefit and advantage shall be made by the commissioners of estimate and assessment relative to the same person or persons, no interest shall be demanded from such person or persons upon the amount assessed for benefit and advantage, except on the excess of the amount he is to pay over and above the amount he is to receive for or in consequence of any intervening time between the period fixed for the receipt of the amount of benefit and advantage and the payments of the amount of loss and damage.

Notices in proceedings to open streets; how published.

Sec. 1,008. Any notice now required, or hereafter to be required, by law to be published in any proceeding for the opening, extending, widening or altering any street or park in said city, shall hereafter be published in the City Record and the corporation newspapers. Whenever handbills now or hereafter may be required by law to be posted in any such proceeding, they shall be posted or affixed with paste or other adhesive substance in three conspicuous places upon or near the lands to be taken in such proceedings, and proof of such posting shall be sufficient evidence without further proof of said notice having remained posted during the whole of the period required by law.

Sec. 1,009. Nothing contained in title 3 of this chapter relating to the vacating and reduction of assessments shall apply to assessments made pursuant to this title.

Sec. 1,010. Whenever the word "street," or the plural thereof, occurs in this chapter, it shall be deemed to include all that is included by the term "street, avenue, road, alley, lane, highway, boulevard, concourse, public square and public place," or the plurals thereof, respectively.

Sec. 1,011. It shall be the duty of the corporation counsel, within ten days after the entry of an order appointing commissioners in a proceeding authorized by this title, to file a copy of such order in the office of the register or county clerk of the county in which the land to be acquired is located. There shall be indorsed upon such copy order a reference to the section and block or the sections and blocks on the land map of such county which include the land to be taken by such proceeding or abut thereon. The register or county clerk with whom such copy order shall be filed shall index in the index of conveyances on each block so indorsed on said copy order a statement giving the title of said proceeding and the date of the entry of said order.

TITLE 5.

SALES OF LANDS FOR TAXES, ASSESSMENTS AND WATER RATES.

When taxes and water rents to be liens on lands assessed.

Sec. 1,017. All taxes and all assessments for local improvements and all water rents, and the interest and charges thereon, which may, in the city of New York, as by this act constituted, hereafter be laid or may have heretofore been laid, upon any real estate now in said city, shall continue to be, until paid, a lien thereon, and shall be preferred in payment to all other charges. No assessments for any local improvement shall be deemed to be fully confirmed, so as to be due and be a lien upon the property included in the assessment, until the title thereof, with the date of confirmation shall be entered with the date of such entry, in a record of the titles of assessments confirmed, to be kept in the office of the collector of assessments and arrears.

Controller to publish notice of confirmation of assessments.

Sec. 1,018. It shall be the duty of the controller to give public notice, by advertisement, for at least ten days, in the City Record and the corporation newspapers, duly designated for any borough, in which the property is situated, immediately after the confirmation of any assessment, for a local improvement, that the same has been confirmed, specifying the title of such assessment, and the date of its confirmation, and also the date of entry in the record of titles of assessments kept in the office for the collection of assessments and of arrears of taxes and assessments, and of water rents, notifying all persons, owners of property affected by any such assessments, that unless the amount assessed for benefit on any person or property shall be paid within sixty days after the date of said entry of any such assessment, interest shall be thereafter collected thereon as provided in the following section, and all provisions of law or ordinance requiring any different or other notice of assessments and interest thereon are hereby repealed.

Interest to be charged if assessment unpaid for sixty days.

Sec. 1,019. If any such assessment shall remain unpaid for the period of sixty days after the date of entry thereof on the said record of titles of assessments, it shall be the duty of the officer authorized to collect and receive the amount of such assessment to charge, collect and receive interest thereon, at the rate of 7 per centum per annum, to be calculated from the date of such entry to the date of payment.

Rate.

Sec. 1,020. Interest shall hereafter be charged and collected at the rate of 7 per centum per annum on all arrears of taxes

and assessments returned to the collector of assessments and arrears from the time they become due until the date of payment, or in case a sale has taken place, as provided in section 1,027, until the date of the certificate mentioned in said section, and on the rents and charges for water from the time the taxes become due, to which they may be added as required by section 1,025, until the same date respectively.

Apportionment of assessment.

Sec. 1,021. If a sum of money in gross has been or shall be assessed for local improvements upon any lands or premises in the city of New York, any person or persons claiming any divided or undivided part thereof may pay such part of the sums of money so assessed, also of the interest and charges due or charged thereon, as the controller may deem to be just and equitable; and the remainder of the sum of money so assessed, together with the interest and charges, shall be a lien upon the residue of the land and premises only, which residue may be sold in pursuance of the provisions of this act, to satisfy the residue of such assessment, interest, or charges, in the same manner as though the residue of said assessment had been imposed upon the residue of said land or premises.

Commissioner of water supply to transmit separate account for each ward: penalty for wasting water.

Sec. 1,022. The commissioner of water supply shall, annually, at the time the tax levy in each year is confirmed by the municipal assembly, cause to be prepared and transmitted to the collector of assessments and arrears a separate account for each ward of all lots on which the water rents for that year, including the extra charges to be included in said rents, as provided by this act, may remain unpaid, with the amount due on each lot, and shall, at the same time, notify the controller of the aggregate amount of such water rents so returned, and shall thereafter receive no payment on account of the same, but may, nevertheless, certify to the collector of assessments and arrears any overcharges which shall, upon said certificate, be remitted by the collector of assesments and arrears at any time before settlement. The said commissioner of water supply is hereby authorized to prescribe a penalty, not exceeding the sum of five dollars for each offense, for permitting water to be wasted, and for any violation of such reasonable rules as he may from time to time prescribe for the prevention of the waste of water; such fines shall be added to the water rents.

Receiver of taxes to return arrears to the collector.

Sec. 1,023. The receiver of taxes shall, on the first day of June, in each year, make a return to the collector of assessments and arrears, of all taxes on real estate and of water rates and rents, which have been added thereto, remaining unpaid, and shall notify the controller of the aggregate amount of arrears so returned, and balance on his books the accounts of the arrears so returned, by charging the amount thereof to the said collector, and shall thereafter receive no payments on account of arrears so returned, but may nevertheless certify to the collector of assessments and arrears any errors which shall, upon such certificate, be corrected by the said collector any time before settlement.

Water rents to be provided for in assessment rolls.

Sec. 1,024. There shall be ruled in the yearly assessment rolls of each ward a column headed "water rents," in which immediately after the confirmation of such assessment rolls, the collector of assessments and arrears shall cause to be entered opposite the ward and block numbers of the property on which the said arrears may be due, the amounts due for "water rents" as transmitted to him by the commissioner of water supply, in accordance with the law, and the same shall be collected at the same time and in the same manner with the taxes to which they shall be added.

Arrears likewise to be provided for.

Sec. 1,025. There shall be ruled in the yearly assessment rolls of the taxes in each ward, a column headed "arrears," in which the collector of assessments and arrears shall, annually, before any taxes for the year are collected, cause to be entered the word "arrears" or "sold," according as the fact may be, opposite to the ward, lot, town and map numbers on which any arrears of taxes, or of taxes with the water rent added, shall be due, or on which any assesment shall remain unpaid which was due or confirmed thirteen months prior to the first of June, then last past, or which may have been sold for assessments, taxes or water rents, and yet be redeemable.

Bills for taxes to show arrears.

Sec. 1,026. There shall be ruled a column for "arrears" in every bill rendered for taxes for lots on which said arrears or assessments, or taxes with water rents added, may be due, as aforesaid, or may have been sold and yet be redeemable, in which shall be written opposite the entry of the ward lot, town and map number of said lot, "arrears" or "sold," according as the fact may be; and it is hereby declared to be the duty of the receiver of taxes to cause a record to be kept of the ward and block numbers of all lots so noted in said bill as in arrears, or sold, when said bills are presented for settlement, and at the bottom of said bill shall be printed: "The columns for arrears indicate lots sold for arrears, or to be sold therefor; arrears to be paid and lots redeemed at the office of the collector of assessments and arrears."

Sales of lands for taxes and assessments; proceedings.

Sec. 1,027. Whenever any tax on lands or tenements, or any assessments on lands or tenements for local improvements, shall remain unpaid for the term of three years from the time the same shall have been confirmed, and also whenever any rents for water in said city shall have been due and unpaid for the term of four years from the time the same shall have been due, it shall and may be lawful for the collector of assessments and arrears, under the direction of the controller, to advertise the said lands and tenements or any of them for sale, and by such advertisement the owner or owners of such lands and tenements respectively shall be required to pay the amount of such tax, assessment or water rents so remaining unpaid, together with the interest thereon at the rate of seven per cent. per annum to the time of payment, with the charges of such notice and advertisement, to the said collector, and notice shall be given by such advertisement that if default shall be made in such payment such lands and tenements will be sold at public auction at a day and place therein to be specified, for the lowest term of years at which any person or persons shall offer to take the same in consideration of advancing the said tax, assessment or water rents, as the case may be, and the interest thereon, as aforesaid, to the time of sale, and the charges of the above mentioned notices and advertisements and all other costs and charges accrued thereon; and if, notwithstanding such notice, the owner or owners shall refuse or neglect to pay such tax, assessment or water rents, with the interest as aforesaid, and the charges attending such notice and advertisement, then it shall and may be lawful for the said collector under the direction of the said controller, to cause such lands and tenements to be sold at public auction for a term of years, for the purpose and in the manner expressed in the said advertisement, and such sale shall be made on the day and at the place for that purpose mentioned in the said advertisement, and shall be continued from time to time, if necessary, until all the lands and tenements so advertised shall be sold; and the said collector shall give to the purchaser or purchasers of any such lands and tenements a certificate of sale, in writing, describing the lands and tenements so purchased, the term of years for which the same shall have been sold, the sum paid therefor, and the time when the purchaser will be entitled to a lease of the said lands and tenements. But no houses or lots, or improved or unimproved lands, in the city of New York, shall be hereafter sold or leased at public auction for the non-payment of any tax, assessment or water rents which may be due thereon unless notice of such sale shall have been published once in each week successively for three months in the City Record and the corporation newspapers, which advertisement shall contain, appended to said notice, a particular and detailed statement of the property to be sold for taxes, assessments or water rents; or the said detailed statement and description, instead of being published in the City Record and the corporation newspapers, shall, at the option of the said controller, be printed in a pamphlet, in which case copies of the pamphlet shall be deposited in the office of the said collector, and shall be delivered to any person applying therefor. And the notice provided for in this section to be given of the sale of houses and lots and improved and unimproved lands shall also state that the detailed statement of the taxes, assessments, or water rents, and the ownership of the property taxes assessed, and on which the water rents are unpaid, is published in the City Record and the corporation newspapers, or in a pamphlet, as the case may be, and that copies of the pamphlet are deposited in the office of the said collector, and will be delivered to any person applying for the same. No other notice or demand of the tax, assessment, or water rent shall be required to authorize the sale of any lands and tenements as hereinbefore provided.

Contiguous lots to be advertised as one parcel.

Sec. 1,028. In advertising houses and lots and improved or unimproved lands to be sold for the non-payment of taxes and assessments, or water rents, it shall be the duty of the collector of assessments and arrears to advertise all the houses and lots or other lands lying contiguous to each other and belonging to the same owner in one parcel, unless otherwise requested by such owner, but he may sell separately the said houses and lots as the same may have been assessed.

Postponement of sales.

Sec. 1,029. It shall be lawful for the controller to suspend or postpone any sale or sales of lands and tenements or any portion thereof which shall have been advertised for sale, to any time not exceeding fifteen months from the day specified in any such advertisement. All sales which shall be so postponed or suspended shall be made without further

advertisement, other than a general notice of such postponement to be published in the City Record and the corporation newspapers.

Sales for taxes and assessments to be conducted by the collector of assessments and arrears; provision for repayment of purchase money when the sale is vacated.

Sec. 1,030. The collector of assessments and arrears or his assistant shall conduct the sales hereinabove provided to be made, and no auctioneer other than said collector or his assistant shall be employed to make such sale, and no auctioneer's fees shall be charged thereon. Certificates of sale shall be made and delivered to the purchaser without charge. In case any sale shall be vacated or canceled, the purchaser, his legal representative or assign, shall be repaid the amount paid by him at such sale, with interest thereon from the time of such payment.

Corporation may bid in property.

Sec. 1,031. It shall be lawful for the collector of assessments and arrears, at any sale of lands and tenements in the city of New York, for taxes, assessments, or water rents, to bid in, for the city of New York, every lot and premises so put up for sale for which no person shall offer to bid, and certificates of such sales shall be made by the said collector to the city of New York, in the form and manner prescribed for individuals. All such purchases shall be subject to the same rights of redemption as purchases by individuals; and if the lands and tenements sold shall not be redeemed, or shall not have been assigned, the controller of the city shall execute a lease therefor to the city of New York, with the same effect as in cases of leases to individuals in this title provided.

Id. How assigned.

Sec. 1,032. It shall be the duty of said collector, in all cases of purchases of lands and tenements by the city of New York for taxes, assessments, or water rents, to assign any and all such purchases to any person who shall at any time within one year from the time when such purchases were made, offer to take the same, upon his or her paying to the said collector of assessments and arrears, for the use of the city, the purchase money, with 7 per cent. interest thereon. The person so receiving the assignment shall be entitled, upon the redemption of the property, to receive the amount so paid by him or her to the city with interest from the time of such payment at the rate and in the same manner as if he or she had purchased the property at a sale for taxes, assessments or water rents.

Certificates where consolidated municipality has bid in property.

Sec. 1,033. In cases where lands within the boundaries of any of the municipal corporations or parts of municipal corporations by this act consolidated with the corporation known as the mayor, aldermen and commonalty of the city of New York, have been sold for taxes and assessments and the title upon such sales has passed to either of said municipal corporations or parts of municipal corporations, such title is hereby transferred to and vested in the corporation of the city of New York as constituted by this act; and said corporation shall have all the rights, privileges and property of its predecessor in said title and the same powers and privileges in respect to the enforcement of the same or the sale or lease thereof, and the controller of the city shall control the same in all respects, as by statute in such cases already made and provided.

Redemption of lands purchased by corporation.

Sec. 1,034. In all cases of lands and tenements purchased by the city of New York for taxes, assessments or water rents, in which the same shall not have been assigned, any person claiming title to such lands and tenements, or any other person, may redeem the same in like manner and to the same effect as in cases of individual purchases, by paying in the manner provided by law, for the use of the said city, the purchase money with seven per cent. interest thereon, together with any and all expenses which shall have accrued since the sale; and in all cases where lands and tenements shall be conveyed to the said city pursuant to the provisions of this title, it shall be the duty of the said collectors in the name of the said city, to cause notices to be served in the manner in this title provided.

Corporation to take possession of unclaimed lands.

Sec. 1,035. It shall be lawful for the city of New York, and it is hereby authorized and empowered, to take peaceable possession of, or sue for and recover, and to hold, occupy, and enjoy all lots or pieces or parcels of land situate, lying and being in the city which have or which may be sold for a term of time for the payment of any taxes or assessments in the said city, after the expiration of the term from which the same may have been or shall be so sold, provided the rightful owner of the same shall not then claim possession of the same, and to have, hold, and occupy the same until the rightful owner shall claim possession of the same, and shall pay all sums which may be due thereon for taxes, assessments and also the value of the improvements which may be made, or erected upon the same by the city of New York, over and above all the rents, issues and profits which may be received by the city of New York for or on account of the rents, issues and profits of any such premises; provided always that the city of New York shall not be entitled to demand any sum of money for any such improvements, unless it shall have caused to be published in the City Record and the corporation newspapers for at least three months previous to the making of such improvements, a notification to the owners of the said lots, to appear and take possession of their said premises; and, further, that in no case shall the owners of the said premises be compelled to pay for any such improvements a sum exceeding two-thirds of the value of their said lots of land. The city shall account for and pay over to the rightful owner of any such lots of land all the rents, issues and profits which the city of New York may receive on account of such premises over and above the amount of all taxes and assessments due for or on account of the said premises, and over and above the value of all such improvements thereon as shall be made after the notification mentioned in this section, and as shall not exceed two-thirds of the value of said lots of land.

Mortgagees to be notified of sale before the time to redeem expires.

Sec. 1,036. In cases of sales of real estate for the non-payment of taxes or assesments, it shall be the duty of the collector of assessments and arrears, sixty days before the time limited by law for the redemption of any real estate from the effects of such sales, to cause notice to be given to all mortgagees of the real estate so sold, their assignees or personal representatives, and to all owners, lessees, or persons otherwise interested, or their legal representatives, who shall at any time, at least one month before the time for the giving of such notice, have filed in the office of the register or county clerk of the county in which said real estate is situated a memorandum of such mortgage and of such real estate, containing a brief abstract, designating the property, with the street number, if there be any, or such definite description or diagram as will enable the said collector of assessments and arrears to designate the said premises upon the city maps, and the name and residence of such mortgagee, assignee, or personal representative, and such owner, lessee, or person represented.

How such notice shall be given.

Sec. 1,037. Such notice shall be given by putting into the post office in the city of New York, directed to such mortgagees, assignees, or personal representatives, at their places of residence, if known to the collector of assessments and arrears, and such owners, lessees, or persons otherwise interested, a printed list describing all the property sold for taxes and remaining unredeemed. Such description shall name the street or avenue on which the property may be situate, the side of the street or avenue, and between what streets or avenues, with the map or street numbers of the property, and in whose name assessed, together with the term of years and amounts for which the same shall have been sold, and the day or days on which the time limited for the redemption of the property will expire, with a notice that unless the property shall be redeemed on or by such days, by the payment of the sums for which the same were sold, with all interest and expenses allowed by law, that leases will be given to the purchasers, in accordance with the statute in such case made and provided.

Affidavit of service.

Sec. 1,038. An affidavit of the service of such notice as is required in the two preceding sections, before any officer authorized to take affidavits to be read in a court of record, and filed in the office of the said register or county clerk, or a certified copy thereof under the signature of such register or county clerk, shall be evidence of the fact of such notice.

Register to record memoranda.

Sec. 1,039. It shall be the duty of the said register or county clerk to keep in his office a book, alphabetically arranged, for the registering of all such memoranda as aforesaid, which book shall be open to the inspection of any person desiring to examine the same, without charge. The said register or county clerk shall be entitled to receive twenty-five cents for registering the memorandum of each mortgage, as above provided.

Mortgagee's right to redeem.

Sec. 1,040. Such mortgagees or their assignees or personal representatives, and such owners, lessees, or persons otherwise interested, or their legal representatives, shall be entitled to redeem the property sold from the effect of such sale, at any time within two years from the date of such sale, and such mortgagees, assignees or personal representatives shall have a lien on the property for the amount paid, with the interest which may thereafter accrue thereon, at the rate of seven per centum per annum, in like manner as if the same had been included in such mortgage.

Notice of expiration of time to redeem to be published: lease to be executed to purchaser on default to redeem.

Sec. 1,041. The collector of assessments and arrears under direction of the controller of

the city shall cause an advertisement to be published at least twice in each week, for six weeks successively, in the City Record and the corporation newspapers in such form as he shall deem best calculated to give notice of such sale, that unless the lands and tenements sold be redeemed by a certain day, they will be conveyed to the purchaser. If the person or persons claiming title to the said lands and tenements, or some other persons, shall not, within two years from the date of the before mentioned certificate, pay to the said collector, for the use of the purchaser or purchasers, his, her or their heirs, executors, administrators or assigns, the sum mentioned in such certificate, together with the interest thereon, at the rate of fourteen per centum per annum, from the date of such certificate, the said controller, in the name of the city of New York, at the expiration of the said two years, shall execute to the purchaser or purchasers, his, her or their heirs, executors, administrators or assigns, a lease, under the common seal of the city, of the lands and tenements so sold for such term of years as the same shall have been sold and the execution thereof shall be witnessed by the said collector. At the time of receiving the lease the purchaser shall pay the sum of two dollars and fifty cents to the said collector for the expense of drawing said lease, and also the expense of advertising the notice to redeem; and all such leases executed by the said controller and witnessed by the said collector shall be presumptive evidence that the sale and all proceedings prior thereto, from and including the assessments on said lands and tenements, for taxes or assessments or water rents, and all notices required by law to be given previous to the expiration of the two years allowed to redeem, were regular and according to the provisions of the statute in such cases made and provided; and such purchaser or purchasers, his, her or their heirs, executors, administrators or assigns, shall in virtue thereof and of this title, lawfully hold and enjoy the said lands and tenements in said lease mentioned for his, her or their own proper use against the owner or owners thereof, and all claiming under him, her or them, until such purchaser's term therein shall be fully complete and ended; and the said purchaser or purchasers, his, her or their heirs, executors, administrators or assigns, shall be at liberty to remove all the buildings or materials which he, she or they shall erect or place thereon during the said term, within one month after the expiration of the said term, but leaving the lands and tenements, with the streets fronting the same, in the order required by the regulations of the municipal assembly; provided that such lease shall not be executed and delivered until the expiration of six months after the publication of the notice last herein above mentioned.

Redeeming a portion of lands sold.

Sec. 1,042. In all cases where pieces or parcels of land shall have been sold for taxes, assessments or water rents, and any person shall claim to redeem any portion of the same within the time limited for redemption, he shall be permitted to do so on paying the apportionment of the tax, assessment or water rents for which the property was sold, together with the interest on the same, and an equitable proportion of the expense, the apportionment to be made by the controller.

Sale of lands actually occupied: notice to be served.

Sec. 1,043. Whenever any lands or tenements sold for taxes, assessments, or water rents, and conveyed, as in this title provided, shall ,at the time of conveyance, be in the actual occupancy of any person, the grantee to whom the same shall have been conveyed, or the person claiming under him, shall serve a written notice on the person occupying such lands or tenements, and in all cases on the person owning the property so conveyed, whether the property be in occupancy or not, provided such owner resides in the city of New York, or in any adjoining county; in case the owner does not reside in the city of New York, or in an adjoining county, said notice shall be sent to his or her post office address by mail. All such notices shall state in substance the sale and conveyance, the person to whom made and the amount of consideration money mentioned in the conveyance, with the addition of forty-two per centum on such amount as the said lands or tenemtns were struck off for at the time of the sale, and the further addition of the sum paid for the lease and advertisement; and stating, also, that unless such consideration money and the said forty-two per centum, together with the sum paid for the lease and advertisements, shall be paid to said collector of assessments and arrears, for the benefit of the grantees, within six months after the service of such notice, the said conveyance will become absolute and the owner, occupant, and all others interested in the lands or tenements be barred from all right and title thereto during the term of years for which such lands or tenements shall have been conveyed. And no conveyance made in pursuance of this title shall be recorded until the expiration of such notice, and the evidence of the service of such notice shall be recorded with such conveyance.

Id. Mode of service.

Sec. 1,044. Such notice shall be served personally or by leaving the same at the dwelling house of the occupant and of the person owning the property conveyed, with any person of suitable age and discretion belonging to his or her family, and the name of the person on whom served shall be stated in the affidavit of service hereinafter mentioned if the same can be ascertained, and if served by mail, shall state the time when the same was mailed.

Id. Affidavit thereof.

Sec. 1,045. In every such case the grantee, or the person claiming under him, in order to complete his title to the land conveyed, shall file with the said collector of assessments and arrears an affidavit of some person residing in the city of New York, who shall be certified as credible by the officer before whom such affidavit shall be taken, that such notice was duly served, specifying the time of service, the mode and manner of service and a copy of such notice shall be attached thereto.

Certificate of the controller: effect thereof.

Sec. 1,046. If the said controller shall be satisfied by such affidavit that the notice has been duly served, and if the moneys required to be paid for the redemption of such lands or tenements shall not have been paid as hereinbefore provided, he shall, under his hand and seal, certify to the fact, and the conveyance shall thereupon become absolute, and the owner and all others interested in the lands or tenements shall be barred of all right thereto during the term of years for which the same shall have been conveyed.

Owner or occupant: when may redeem.

Sec. 1,047. The owner, occupant, or any other person may, at any time within the six months named in such notice, redeem the said lands and tenements by paying such purchase money, with the addition of forty-two per cent. thereon, and the amount that shall have been paid for the lease, and every such redemption shall be as effectual as if made before the conveyance of the lands or tenements sold.

Rate of interest: how to be calculated.

Sec. 1,048. The rate of interest allowed by law to the purchaser at the time of redemption on the amount of the purchase money shall be reduced to fourteen per cent. per annum, but no interest shall be calculated on a less portion of time than one-quarter of a year, and in all cases where the property shall be redeemed during any fractional part of a year, the interest shall be calculated so as to include the quarter in which such redemption shall be made, the time to be computed from the day of the sale.

Certificate of redemption to be furnished.

Sec. 1,049. Upon such redemption, as provided for in the two preceding sections, the said collector of assessments and arrears shall give to the person redeeming, a certificate under his hand and seal, stating the payment, the year in which the sale was made, and showing what land such payment is intended to redeem, and such certificate shall be evidence of such redemption.

Lost certificate; delivery of lease in case of.

Sec. 1,050. Whenever any certificate given by the collector of assessments and arrears, as in this title provided, of lands sold shall be lost, the said controller may receive evidence of such loss, and on satisfactory proof of the fact may execute and deliver a lease to such person or persons who shall appear entitled thereto of the lands and tenements described in the certificate, and may also, in his discretion, require a bond of indemnity to the city of New York. Each certificate shall be registered in the record of sales to be kept in the bureau of said collector of assessments and arrears, and no transfer of such certificate shall be valid until registered in said book.

Bills of arrears of taxes and assessments to be furnished when requested.

Sec. 1,051. The collector of assessments and arrears, upon the requisiton of any person, shall furnish a bill of all arrears of taxes, and of taxes with the "water rents" added on any lot or lots due prior to the first of June, then last past, and of assessments which shall have been due twelve months or over, including the amount necessary to redeem it or them, if it or they have been sold for any arrears of assessments, taxes or water rents and be yet redeemable; and upon the payment of the said bill (which shall be called a "bill of arrears of assesments, taxes and water rents and for redemption") his receipt thereon, countersigned by the controller, shall be conclusive evidence of such payment. The controller shall cause to be kept a duplicate account of amounts so collected, and the certificate of the collector of assessments and arrears, countersigned by the controller, that there are no such liens on said lot or lots, shall forever free the said lot or lots from all liens of taxes, or for taxes with water rates added, or for rents of water added to the taxes prior to the first of June then last passed, and for all assessments due thirteen months or over, prior to the date of the said receipt or certificate, and from all liens in consequence of sales for assessments, taxes, or water rents, or for all of them, when the time allowed by law for redemption had not

expired at the date or time of said payment or certificate.

Id.: fees for searches.

Sec. 1,052. Fees for the searches to be paid into the city treasury shall be included in the bills mentioned in the preceding section, and also charges for certificates, which shall be given by said collector of assessments and arrears, respecting lots on which there may be no arrears when searches are required; the said fees to be regulated by ordinance of the municpal assembly.

Complete record of sales to be kept.

Sec. 1,053. There shall be kept in the office of the collector of assessments and arrears a record of all sales made for taxes, assessments, and water rents, which record shall show the amount of the tax, the assessment, and the water rents, a description of the premises sold, the date of the sale, the name of the person to whom sold, the term of years for which such property was sold, time of the delivery of the lease, to whom delivered, and when the same shall expire.

Affidavits of publication of necessary notices to be preserved.

Sec. 1,054. It shall be the duty of the collector of assessments and arrears to procure, preserve and register in his office, affidavits of the publication of all notices by this title required to be published, and such affidavits shall be presumptive proof of such publication in all the courts of this state.

CHAPTER XVIII.

DEPARTMENT OF EDUCATION.

Title I. The Public Schools and Their Management.
Title 2. The College of the City of New York.
Title 3. The Normal College.
Title 4. General Provisions.

TITLE 1.

THE PUBLIC SCHOOLS AND THEIR MANAGEMENT.

Board of education and school boards: property under their care and control: in what name suits brought.

Sec. 1,055. The title to all property, real and personal, now or that may hereafter be acquired for school or educational purposes, except the state normal school at Jamaica, and also the title to all property, real and personal, purchased for school or educational purposes with any school moneys, whether derived from the issue of bonds, or raised by taxation in the city of New York, shall be vested in the city of New York, as constituted by this act, but shall be under the care and control of the board of education and of the school boards of the various boroughs, as provided in this act, for the purposes of public education. Suits in relation to such property shall be brought in the name of the said board of education. The said city of New York shall have power to take and hold any property, real or personal, devised or bequeathed or transmitted to it for the purposes of education in said city; but such property shall be under the care and control of the board of education and of the school boards of the various boroughs, as provided by this act, for the purposes of public education in said city.

School age of children.

Sec. 1,056. The schools of the said city under the management and control of the board of education and of the several school boards established by this act shall be free to all persons over five and under twenty-one years of age residing in said city, but under such regulations not in conflict with the general school law of the state, as the board of education or the respective school boards shall prescribe; and where kindergarten schools are established under the provisions of this act, they shall, in like manner, be free to children not less than four years of age residing in said city.

Board of education: succeeds to trusts of Public School society.

Sec. 1,057. All the trusts held by or vested in the Public School society of the city of New York, as organized and existing previous to its several acts, in compliance with the provisions of an act entitled "An act relative to common schools in the city of New York," passed the fourth day of June, one thousand eight hundred and fifty-three, which have not been conveyed by the said society, and all the rights, powers and duties of the said society, which yet remain therein, shall continue and be vested in the board of education of the city of New York, which board is and shall be held to be the lawful successors of said society in the execution of every trust.

Board of education and school boards: succeed to duties and powers of former boards, etc.

Sec. 1,058. Subject to the provisions of this act, and so far as is consistent therewith, the board of education of the city of New York, as created by the terms and provisions of this act, and the school boards of the various boroughs, as created by the terms and provisions of this act, shall respectively be subject to all the duties, possess all the rights and exercise all the powers now respectively held by the boards of education, commissioners of education and school trustees existing at the time of the passage of this act, in and for the city of New York, the City of Brooklyn, or Long Island City, or the school districts of the county of Richmond, and the school districts of that part of the county of Queens, by this act consolidated into the city of New York, and such duties shall be deemed under this section to be devolved upon the said board of education or the school boards in the same manner as similar duties are devolved upon the said board of education or the school boards of the boroughs by this act.

Money to conduct schools to be raised by taxation after 1898.

Sec. 1,059. The board of estimate and apportionment and the municipal assembly of the city of New York may, in the year eighteen hundred and ninety-nine, and in each and every year thereafter, raise and collect by tax, on the estates, real and personal, liable to taxation in said city, such sum of money as may be necessary to provide for the conduct of the schools as called for by the budget adopted by the said board and the said assembly pursuant to the provisions of this act; but nothing contained in this act shall be construed to limit or restrict the power of the board of estimate and apportionment and the municipal assembly, to fix in their descretion, and in such detail as they may deem expedient, the amounts to be allowed to said board of education in the annual tax levy.

Special and general school funds: all moneys to be received by board of education.

Sec. 1,060. All moneys raised for educational purposes in the city of New York shall be raised in two funds, to be known as the special school fund and the general school fund, respectively. The special school fund shall consist of all moneys raised for the purchase of school sites, for the erection and repairs of buildings, for the purchase and the leasing of educational and school buildings; for the purchase of all school supplies, for the maintenance of the nautical school, and for the administrative purposes of the board of education.

And it shall be the duty of the board of estimate and apportionment and of the municipal assembly to indicate in the budget in raising the special school fund the respective amounts thereof which shall be available for use within the jurisdiction of each of the school boards. The general school fund shall be raised in bulk, and for the city at large, and shall contain and embrace all items for educational purposes not comprised in the special school fund. The said board of education shall have power to take and to receive, and shall take and receive all moneys appropriated or available for educational purposes in the city of New York.

School board, how constituted: vacancies: members to hold no other office except, etc.

Sec. 1,061. There shall be the following school boards in the city of New York:

(1.) A school board for the boroughs of Manhattan and the Bronx, to be composed of twenty-one members. The board of education of the city of New York, as constituted prior to the passage of this act, shall be the school board in and for the said boroughs, and the members of said board of education shall serve out, as members of the school board, the terms for which they were respectively appointed as members of the board of education of the city of New York. Their powers, duties and functions as a board of education shall cease and determine, and their powers, duties and functions as a school board under this act shall commence on the first day of February, 1898.

(2.) A school board for the borough of Brooklyn, to be composed of forty-five members. The board of education of the city of Brooklyn shall be the school board in and for the borough of Brooklyn, and the members of said board of education shall serve out, as members of the school board, the terms for which they were respectively appointed as members of the board of education of the city of Brooklyn. Their powers, duties and functions as a board of education shall cease and determine, and their powers, duties and functions as a school board under this act shall commence on the first day of February, 1898.

The mayor shall appoint successors to the members of the school board of the boroughs of Manhattan and the Bronx and of the school board of the borough of Brooklyn as their terms shall respectively expire.

(3.) A school board for the borough of Queens and a school board for the borough of Richmond, each to be composed of nine members, to be appointed as follows: On the third Wednesday in January, 1898, the mayor shall appoint for each of the said boroughs, nine persons, to constitute the school board in the said boroughs, respectively; three of whom shall be appointed for one year, three for two years and three for three years, and their terms of office shall be designated in their letters of appointment. They shall take office, and their terms shall commence on the first day of February succeeding their appointment. As their terms respectively expire, the mayor shall appoint their successors for a full term of three years.

The powers, duties and functions of the board of education of Long Island City, and

of all other boards of education within the territory by this act consolidated into the city of New York, and of the trustees of common schools for the school districts included in the city of New York as constituted by this act, shall cease and determine, and their offices shall be abolished on the first day of February, 1898; and the jurisdiction and powers of school commissioners within the territory of the city of New York as constituted by this act, shall cease at the same time.

The term of office of all members of the school boards, save as in this section otherwise provided, shall be three years. The members of each school board shall be appointed from the residents of the respective boroughs in which they are to serve. Vacancies in said board, caused by death, resignation, removal from the borough, or otherwise, shall be filled by the mayor for the unexpired term. Members of the school boards shall hold no office of emolument under the city, county, state, or national government, except the offices of notary public, or commissioner of deeds, or offices in the National guard.

Board of education: how constituted; president; vacancies; members to serve without pay.

Sec. 1,062. There shall be in the city of New York as constituted by this act, a board of education, which shall have the management and control of the public schools and of the public school system of the city, subject only to the general statutes of the state relating to public schools and public school instruction, and to the provisions of this act. The board of education of the city of New York shall consist of nineteen members, and shall be composed as follows: Of the chairman of each of the school boards provided for by the last preceding section, by virtue of his office, and of ten delegates elected by the school board of the boroughs of Manhattan and the Bronx, and of five delegates elected by the school board of the borough of Brooklyn, to be chosen from the membership of said school boards, respectively. The members of the board of education so elected shall serve for one year and until their successors are chosen. On the third Monday of February, in the year 1898 and in every year thereafter, the said board of education shall organize by electing one of its members as president of the board, who shall preside at its meetings, and shall have the same power to vote thereat as any other member, but who shall not have the power of veto. Any vacancy in the office of members of the board of education, caused by death, resignation, or otherwise, shall be filled for the unexpired term in the same manner as the officer whose office is vacated was chosen or elected. Members of the board of education and of the several school boards shall serve without pay.

Id. To possess powers and privileges of a corporation.

Sec. 1,063. For the purposes of this chapter, the board of education of the city of New York shall possess the powers and privileges of a corporation.

Id. To be representative of school system; to require and revise estimates from school boards. To submit estimate for entire school system.

Sec. 1,064. The board of education shall represent the schools and the school system of the city of New York before the board of estimate and apportionment, and before the municipal assembly in all matters of appropriations in the budget of the city for educational purposes, and in all other matters, and shall, in general, be the representative of the school system of the city in its entirety. The said board shall require from each school board estimates in detail of the moneys needed for the administration of the department of education in its borough, and it shall be the duty of each school board, whenever required by the board of education, to transmit such estimates to the said board. The board of education shall, thereupon, restate, rearrange, revise, and verify such estimates so as to form an estimate for the entire school system of the city, which it shall submit, properly divided into items under the general school fund and the special school fund, to the board of estimate and apportionment for its action.

Id. Administers special fund; apportions general fund and files record with controller.

Sec. 1,065. The special school fund shall be administered by the board of education. The general school fund shall be administered by the respective school boards and shall be apportioned by the board of education among the different school boards of the city as follows:

(1.) A distributive quota to each school board of $100 for every qualified teacher, or for successive qualified teachers who shall have actually taught in the schools under the charge of the board during a term of not less than thirty-two weeks of five successive days each, inclusive of legal holidays.

(2.) The remainder of such general school fund shall be apportioned among the said school boards by the said board of education in proportion to the aggregate number of days of attendance of the pupils resident in the boroughs under their charge, between the ages of five and eighteen years, at their respective schools, during the last preceding school year, and also of such pupils resident therein over four years of age, as shall, during the last preceding school year, have attended any kindergarten schools established under the direction of the school boards or any of them, pursuant to the provisions of this act. The aggregate number of days in attendance of the pupils is to be ascertained from the records thereof kept by the teachers, as hereinafter prescribed, by adding together the whole number of days of attendance of each and every such pupil in the schools under the charge of the respective school boards. The board of education shall file a record of their apportionment of the general school fund and of all appropriations from the special school fund, with the controller.

Id. May direct controller to withhold certain appropriations.

Sec. 1,066. The board of education shall have power to direct the controller to withhold from any school board any part of the moneys apportioned to it upon the basis of the number of teachers employed in any school under its charge, whenever the city superintendent of schools shall report in writing to said board of education that the provisions of the state school laws, or of this chapter, or of the bylaws of the board of education in any way relating to such school or to its teachers, are not being complied with; and when thereafter the city superintendent shall report in writing to the board of education that the provisions of the state school laws, or of this chapter, or of the bylaws of the board of education, are being satisfactorily complied with in said school, it shall be the duty of the board of education to direct the controller to place at the disposal of the school board concerned the school moneys so withheld.

Id. To use and control certain premises. Housing the school board of the borough of Manhattan and the other boroughs.

Sec. 1,067. The board of education shall have power to use and to control the premises known as the hall of the board of education, at the corner of Grand and Elm streets in the borough of Manhattan, and any other buildings to be occupied for like purposes therein, and to make all the repairs, alterations and additions in and to the said building or buildings which the board of education may authorize and deem advisable. And it shall be its duty to make provision for housing the school board of the boroughs of Manhattan and the Bronx in such building or in any other building which may be so occupied by the board of education. The board of education of the city of New York shall provide a meeting room, and such other headquarters, offices and rooms, as they may deem advisable within the boroughs of the city of New York, for the administration of the powers and duties of the school boards of the other boroughs.

Id. To dispose of personal property. Disposition of proceeds.

Sec. 1,068. The board of education shall have power, in the name of the city of New York and for said city, to dispose of such personal property used in the schools or other buildings under the charge of said board, as the school board of the borough concerned shall by resolution certify is no longer required for use therein, and all moneys realized by the sale thereof shall be paid into the city treasury and shall at once be appropriated by the board of estimate and apportionment to the special school fund of the board of education for use in the borough in which the property sold was situated.

Board of education: to appoint certain officers, clerks, etc., and fix their salaries.

Sec. 1,069. The said board of education shall have power to appoint a secretary of the board, a superintendent of school buildings, who shall be an architect of experience and good standing, and whose term of office shall be for six years; a superintendent of school supplies, whose term of office shall be for six years; a city superintendent of schools for the term of six years and one or more auditors, as may be necessary in the judgment of the board, upon whose certificate accounts against the said board, or charges upon either the special or general school fund may be paid when countersigned by the proper officers, as the bylaws of the said board of education, with the approval of the controller of the city, may direct. The said board may appoint a chief clerk and such other officers, clerks, or subordinates as it may deem necessary for its administrative duties, and as are provided for by the proper appropriation. The city superintendent of schools, the secretary of the board, the superintendent of school buildings, the superintendent of school supplies, the auditor or auditors, and any other officers, clerks or subordinates of the board, may, any or either of them, be removed for cause at any time by a vote of three-fourths of all of the members of the board of education. The said board shall fix and regulate within the proper appropriation the salaries or compensation of the secretary of said board; of the superintendent of school buildings; of the superintendent of supplies; of the auditor or auditors; of the city superintendent of

schools; of members of the board of examiners, and of any other officers, clerks or subordinates, and it may fill any vacancies in such offices or positions.

Id. Power to enact bylaws, rules and regulations.

Sec. 1,070. The board of education shall have power, subject to the provisions of law and of this act, to enact bylaws, rules and regulations for the proper execution of all duties devolved upon the board, its members and committees; for the transaction of all business pertaining to the same; for defining the duties of the city superintendent of schools, the superintendent of school buildings, the superintendent of school supplies, of its auditor or auditors, its clerks and subordinates; for regulating the manner of making disbursements from any of the funds apportioned to any borough for school purposes, for the proper execution of all powers vested in it by law, and for the promotion of the welfare and best interests of the public schools and public school system of the city in the matters committed to its care.

Id. Secretary: duties: secretary and chief clerk may administer oaths.

Sec. 1,071. The secretary of the board of education shall have charge of the rooms, books, papers and documents of the board, and shall, in addition to his duties as secretary of the board, perform such other duties as may be required by its members or committees. The secretary and the chief clerk of said board are authorized to administer oaths and take affidavits in all matters appertaining to the schools in the city of New York, and for that purpose shall possess all the powers of a commissioner of deeds, but shall not be entitled to any of the fees or emoluments thereof.

Id. Provide for bureaus, etc., in boroughs.

Sec. 1,072. The board of education shall make provision for the organization in the various boroughs of such bureaus as they may deem necessary in the departments of the superintendents of school buildings and of school supplies, and shall make such provision by its bylaws as will enable each school board to secure prompt and efficient service for the planning and erection of new buildings for school purposes, and for the alteration and repair of existing buildings and for the regulation of the purchase and distribution of school books and supplies, and for the preservation of all school records.

Superintendent of school buildings: oath and security by: subject to regulations of board: vacancy in office.

Sec. 1,073. The superintendent of school buildings shall take and subscribe before the secretary or the chief clerk of the board of education, the oath prescribed by the constitution of this state, and give such security for the faithful performance of the duties of his office as the board of education may direct; and the department under his charge shall be subject to such rules and regulations as the board may establish, one of which shall prohibit the performance by him of any work on any other account, similar to that performed under the regulations so established, except for the college of the city of New York and the normal college of the city of New York, and like institutions in the department of education. Any vacancy in the said office of superintendent of school buildings shall be filled by appointment for the unexpired term.

Id. Deputy in each borough. Plans for school buildings.

Sec. 1,074. The superintendent of school buildings may appoint a deputy superintendent for each of the boroughs, who shall be an architect or engineer of good standing, and, with the authority of the board of education, he may empower a deputy superintendent in his place and stead to execute all the duties of superintendent and such other duties as the board of education may, by regulation, prescribe. All plans for new school buildings, for additions to school buildings and for structural changes in old buildings, shall be passed upon and must be approved by the superintendent of school buildings, who shall then submit such plans to the school board of the borough wherein such buildings are to be erected or such additions or changes are to be made, who shall thereupon transmit such plans with such suggestions, in writing, as they may see fit to make, to the board of education, whose action thereon shall be final.

Id. Appointment and removal of janitors.

Sec. 1,075. Janitors shall be appointed by the school board on the nomination of the superintendent of school buildings. All such nominations shall be from a preferred list of duly qualified persons certified to and on file in the office of superintendent of school buildings. Janitors may be removed by the school board on complaint of the principal of the school, the superintendent of school buildings, or a member of the school board.

Board of education; purchase of, and regulations regarding supplies.

Sec. 1,076. The board of education shall provide for the purchase of all books, apparatus, stationery and other things necessary and expedient to enable the schools of the city to be properly and successfully conducted. It shall cause to be furnished all necessary supplies, and shall make regulations for the furnishing thereof to the schools in the several boroughs, and for the accounting for the same by the several school boards. The board of education shall have power to enact bylaws and resolutions for the government of the superintendent of supplies, which bylaws and resolutions shall provide that all supplies, as far as possible, shall be obtained by contract, for which proposals shall be advertised for a period of at least two weeks.

Id. Advertising for contracts: security for performance.

Sec. 1,077. The board of education shall have power by its bylaws to prescribe the period of all advertising for contracts to be entered into by or in behalf of the said board, the rules which are to determine the acceptance or rejection of all bids given for any work, labor or materials advertised for, and the security to be required to insure the performance of such contract.

Superintendent of supplies: oath and security by; subject to regulations of board; vacancy: deputy superintendents and subordinates: depots of supplies.

Sec. 1,078. The superintendent of school supplies shall take and subscribe before the secretary or the clerk of the board of education the oath prescribed by the constitution of this state, and shall give such security for the faithful performance of the duties of his office as the board of education may direct; and the department under his charge shall be subject to such rules and regulations as the board may establish. Any vacancy in the said office of superintendent of school supplies shall be filled by appointment for the unexpired term. The superintendent of school supplies may appoint such deputy superintendents and such other subordinates as the bylaws of the board of education may authorize, and he may, with the authority of said board, empower a deputy superintendent in his place and stead to execute all the duties of the superintendent, and such other duties as the board of education may by regulation prescribe. He shall establish such depots of supplies in any of the boroughs as may be authorized by the board of education.

City superintendent of schools: rights and duties.

Sec. 1,079. The city superintendent of schools shall have the right of visitation and inquiry in all of the schools of the city of New York as constituted under this act, and he shall report to the board of education on the educational system of the city, and upon the condition of any and of all the schools thereof, but he shall have no right of interference with the actual conduct of any school in the city of New York. He shall have a seat in the board of education and the right to speak on all matters before the board, but not to vote.

Id. Further duties: annual report: clerks of main office.

Sec. 1,080. The city superintendent of schools, so often as he can consistently with his other duties, shall visit the schools of the city as he shall see fit, and inquire into their courses of instruction, management and discipline, and shall advise and encourage the pupils and teachers and officers thereof; subject to the bylaws of the board of education, he shall prescribe suitable registers, blanks, forms and regulations for the making of all reports, and for conducting all necessary business connected with the school system not devolved upon the borough superintendent by this act, and he shall cause the same, with such information and instructions as he shall deem conducive to the proper organization and government of the schools, and the due execution of their duties by school officers, to be transmitted to the officers or persons intrusted with the execution of the same. He shall submit to the board of education an annual report containing a statement of the condition of the schools of the city, and all such matters relating to his office and such plans and suggestions for the improvement of the schools in the school system, and for the advancement of public instruction in the city of New York as he shall deem expedient, and as the bylaws of the board of education may direct. He may appoint such clerks as he may deem necessary and as are authorized by the board of education, but the compensation of such clerks shall not exceed in the aggregate the appropriated provision therefor. He shall assign his clerks to their various duties, and may suspend or discharge them for cause, but in such case the clerks shall have a right of appeal to the board of education.

He shall report as often as the board of education shall direct upon any matter, or matters, entrusted to his charge, in such detail as shall be required of him. He shall maintain his main office in the borough of Manhattan, and in such building as the board of education shall direct. He shall have power, at any time, to call together all of the borough superintendents and associate superintendents for consultation. It shall further be his duty to report any case of gross misconduct, insubordination, neglect of duty, or gen-

eral inefficiency on the part of any borough superintendent or associate superintendent first to the school board of the borough concerned, and, failing of remedy, then to the board of education.

Board of examiners: teachers' licenses, etc.

Sec. 1,081. A board of examiners is hereby constituted, whose duty it shall be to examine all applicants requiring to be licensed in and for the city of New York, and to issue to those who pass the required tests of character, scholarship and general fitness, such licenses as they are found entitled to receive.

Such board of examiners shall consist of the city superintendent of schools, together with four persons appointed by the board of education upon the nomination of the city superintendent. The terms of the first four examiners so appointed shall be one, two, three and four years, respectively, and as their terms respectively expire, their successors shall be appointed for a full term of four years, which shall thereafter be the full and regular term of office of said examiners. They shall be paid such compensation for services actually rendered as the board of education shall prescribe.

To be eligible to appointment as an examiner, an applicant must possess some one of the following qualifications, to wit: (a) A degree or diploma of graduation from a college or university recognized by the regents of the university of the state of New York, together with at least five years' successful experience in teaching since graduation. (b) A state certificate obtained as the result of an examination held since 1875, together with at least ten years' successful experience in teaching. (c) The highest certificate for a principal or superintendent in force when this act takes effect by any city included in the city of New York as constituted by this act, together with at least ten years' successful experience in teaching.

No borough superintendent, associate superintendent, principal or teacher in the city of New York shall be allowed to serve on the board of examiners.

Each school board, on the recommendation of the borough board of superintendents, shall designate, subject to the requirements of the state school laws in force when this act takes effect or that may thereafter be enacted, the kinds or grades of licenses to teach which may or shall be used in the borough or boroughs under its charge, together with the academic and professional qualifications required for each kind or grade of license, and shall certify the same to the city superintendent of schools.

Each school board, on the recommendation of the borough superintendents, shall also designate, subject to the like limitations, and shall certify in like manner, the academical and professional qualifications required for service in the boroughs under its charge of principals, branch principals, supervisors, heads of departments, assistants and all other members of the teaching staff.

The board of education on the recommendation of the city superintendent, shall designate, subject to the requirements of the state school laws in force when this act takes effect or that may thereafter be enacted, the minimum requirements to prevail throughout the city for all officers to be appointed to any supervising or teaching position under any school board.

The board of examiners shall hold such examinations as the city superintendent may prescribe, and shall prepare all necessary eligible lists. The city superintendent shall transmit to each school board the eligible lists that are available for use within its jurisdiction.

All licenses shall be issued in the name of the city superintendent of schools and shall state on their face in what borough or boroughs they are valid.

Graduates of colleges and universities recognized by the regents of the University of the state of New York, who have pursued for not less than one year pedagogical courses therein; graduates of schools and colleges for the training of teachers, approved by the state superintendent of public instruction; and teachers holding a state certificate issued by the state superintendent of public instruction since the year 1875, or holding a college graduate's certificate issued by the same authority, may be exempted, in whole or in part, from such examination at the discretion of the city superintendent. The names of those to whom licenses have been granted, including those exempted from examination and those duly licensed in the several boroughs prior to the date on which this act takes effect, shall be entered by the city superintendent upon lists to be filed in his office, a separate list being made for each grade or kind of license for which the board of education shall by its by-laws make provision; and such lists shall always be open to the inspection of the members of the board of education, the members of the school boards, the borough superintendents, the associate superintendents, the inspectors, and the principals of schools. Except as superintendent or associate superintendent, as supervisor or director of a special branch, as principal of or teacher in a training school or high school, no person shall be appointed to any educational position whose name does not appear upon the proper list. No person shall teach in any public school in the city who has not such license, except as herein otherwise provided, nor shall any unlicensed teacher have any claim for salary. Licenses to teach shall be issued by the city superintendent of schools for a period of one year, which may be renewed without examination in case the work of the holder is satisfactory to the borough superintendent for two successive years. At the close of the third year of continuous, successful service, the city superintendent may make the license permanent. Authority to revoke any permanent license for cause shall be vested in the state superintendent of public instruction.

Id. School officers not to be interested in contracts: removal of.

Sec. 1,082. The board of education shall have power to remove from office any school officer who shall have been directly or indirectly interested in the furnishing of any supplies or materials, or in the doing of any work or labor, or in the sale or leasing of any real estate or in any proposal, agreement or contract for any of these purposes, in any case in which the price or consideration is to be paid, in whole or in part, directly or indirectly, out of any school moneys, or who shall have received from any source whatever any commission or compensation in connection with any of the matters aforesaid; and any school officer who shall violate the preceding provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment in the city prison not exceeding one year, or both, and shall also be ineligible to any school office. The provisions of this section shall not apply to authors of school books used in any of the public schools because of any interest they may have as authors in such books.

Id. Public school teachers' retirement fund.

Sec. 1,083. The board of education is hereby given the general care and management of the public school teachers' retirement fund created by this act. The controller of the city of New York shall hold any money belonging to said fund, and by the direction of said board of education shall invest and pay out the same. The board of education shall have charge and administer said public school teachers' retirement fund as it shall deem most beneficial to said fund, and is empowered to make all necessary contracts and take all necessary and proper action and proceedings in the premises, and to make payments from said fund of annuities granted in pursuance of this act; and shall, from time to time, establish such rules and regulations for the administration of said fund as it may deem best; which rules and regulations shall carefully preserve all rights inhering in the teachers of the city of New York as constituted prior to the passage of this act. And the controller of the city of New York shall report in detail to the board of education of the city of New York, annually, in the month of January, the condition of said fund, and the items of the receipts and disbursements on account of the same. The public school teachers' retirement fund herein provided for shall consist of the following, with the interest and income thereof: (1) All money, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any teacher or teachers for and on account of absence from duty from any cause. The secretary of the board of education shall certify monthly to the controller the amounts so deducted from the salaries of teachers during the preceding month. (2) All moneys received from donations, legacies, gifts, bequests or otherwise, for and on account of said fund. (3) All such other methods of increment as may be duly and legally devised for the increase of said fund. On and after the passage of this act the board of education shall, by amending its bylaws relating to the excuse of absence of teachers with pay, so provide that the aggregate of the several sums deducted or forfeited on account of absence from duty shall be fully adequate to meet the demands made upon the public school teachers' retirement fund for the payment of annuities as herein provided. Said board of education shall have power, by a two-thirds vote of all its members, and after a recommendation to that effect shall have been made by the city superintendent of schools, stating that the teacher is mentally or physically incapacitated for the performance of duty, to retire any female teacher of the public schools, including special teachers in the same, who shall have taught therein during a period aggregating thirty years, and to retire any male teacher of said schools who shall have taught therein during a period aggregating thirty-five years. The board of education may also, at its discretion, retire such teachers upon their own application, after the like period of service. Any teacher so retired shall thereafter be entitled to receive as an annuity one-half the annual salary paid to said teacher at the date of said retirement, not to exceed, however, in any case the sum of one thousand dollars per annum. The said board is hereby given the power to use both the principal and the income of said fund, and to manage, accumulate and otherwise control the same as said board shall provide by its bylaws, and to pay the annuities hereinbefore mentioned, and it

shall have power, from time to time, to reduce the amount of annuities of all beneficiaries of said fund, provided only that such reduction shall be at the same rate per centum. None of the provisions of this section shall apply, however, to any teacher in any school in the borough of Brooklyn, who is entitled to any benefit under the fund mentioned in section 1,119 of this act until after his removal from said borough. When a teacher is transferred to the borough of Brooklyn, a sum equal to one per cent. of the amount paid to such teacher during said teacher's service in the city of New York as constituted prior to the passage of this act, since the date on which the public school teachers' retirement fund of Brooklyn was created, shall be paid into the said Brooklyn retirement fund and inure to the teacher's benefit in that fund under the rules governing the same.

Id. Annual report to state superintendent of public instruction.

Sec. 1,084. The board of education shall, between the first day of August and the 30th day of September in each year, make and transmit to the state superintendent of public instruction a report in writing for the state school year ending on the next preceding 31st day of July, which report shall be in such form and shall state such facts as the state superintendent and the school laws of the state shall require.

Id. Annual report to mayor; other reports to mayor.

Sec. 1,085. The board of education shall, between the first day of August and the 30th day of November in each year, make and transmit to the mayor of the city of New York a report in writing, bearing date on the 31st day of July next preceding, stating the whole number of schools within their jurisdiction, specially designating the schools for colored children; the schools or societies from which reports shall have been made to the board of education, within the time limited for that purpose; the length of time such school shall have been kept open; the amount of public money apportioned or appropriated to said school or society, the number taught in each school, the whole amount of money drawn from the city chamberlain for the purposes of public education during the year ending at the date of their report, distinguishing the amount received from the general fund of the state and from all other sources; the manner in which such moneys shall have been expended; and such other information as the mayor may from time to time require in relation to common school education in the city of New York. The board of education shall make such other reports to the mayor as he may call for, and at such times as he shall require.

Continuation of yearly contracts with teachers in territory consolidated.

Sec. 1,086. All yearly school contracts by and between the local school authorities of any school district whose territory is so annexed and consolidated by this act and the teachers in such district, as such yearly contracts exist at the time when this act shall take effect, shall in all respects continue until the expiration of the yearly term named therein, and shall be so continued by the board of education of the city of New York, through the proper school board.

Removals by mayor for neglect or misconduct after hearing.

Sec. 1,087. Any member of the board of education of a borough school board, or any inspector of common schools in the city of New York, may be removed by the mayor of said city, upon proof either of official misconduct in office or negligence of official duties, or of conduct in any manner connected with his official duties, or otherwise, which tends to discredit his office or the school system, or for mental or physical inability to perform his duties as member or inspector, but before such removal of said member or inspector he shall receive due and timely notice in writing of the charges and a copy thereof, and shall be entitled to a hearing on like notice before the mayor and to the assistance of counsel on said hearing.

Oath of appointees to school office.

Sec. 1,088. Every person appointed to a school office in said city or in any borough thereof, shall before entering upon the duties of his office and wthin fifteen days of the time of being notified of his appointment to fill a vacancy, take and subscribe before the secretary or the clerk of the board of education the oath of office prescribed by the constitution of the state, and the school office as to which any person shall omit to take the oath within the time, and in the manner above prescribed, shall be vacant at and from the expiration of the fifteen days.

Id. Organization: secretary and employees: duties and bond of secretary.

Sec. 1,089. The school board in each of the boroughs shall organize on the second Wednesday of February next ensuing after the appointment of its members and choose a president from its own members, and elect its delegates, if any, to the board of education, and shall, from time to time, as may be necessary, appoint and remove subject to the provisions of this chapter, a secretary and such clerks, subordinates, and employees as may be required for the administrative duties of the board, and as may be authorized by this chapter or by the board of education of the city of New York, and be provided for by the proper appropriation. The secretary shall discharge such financial duties as may be prescribed by the board of education and the controller of the city of New York, and he shall give a bond in such amount and in such form to the city of New York as the board of education of said city, with the approval of the controller, may by its bylaw or resolution require.

Id. Powers and duties.

Sec. 1,090. Each school board, subject to the direction and control of the board of education and in accord with the bylaws of the board of education, shall have the safe keeping of all the premises and other property used for or belonging to the schools in the borough. A school board shall have power to choose and to determine the sites for all school buildings, and for additions thereto, within its jurisdiction, and it shall be its duty to transmit from time to time such determinations to the board of education, by resolutions which shall be certified and transmitted in accordance with the bylaws thereof.

Each school board shall have power to adopt bylaws regulating the exercise of all powers and duties vested in it by law, which bylaws, however, shall not conflict with the bylaws of the board of education which that board may be authorized by law to adopt in the premises, nor with the provisions of this chapter. And the said school board shall have power to provide by such bylaws for the government and management of the schools in the borough, for defining the duties and regulating the exercise of the powers of its members and committees and of all school officers, the borough superintendent and associate superintendents, principals or teachers, clerks, assistants and employees, and for the regulation of all disbursements from the general school fund in the borough, and for the promotion and welfare and best interest of all matters committed to it concerning the public schools and the public school system of the city in said borough.

Id. Power to fix salaries.

Sec. 1,091. Each school board shall have power to adopt bylaws fixing the salaries of the borough and associate superintendents, of principals and branch principals, and of all other members of the supervising and teaching staff, and such salaries shall be regulated by merit, by the grade of class taught, by the length of service, or by the experience in teaching of the incumbent in charge, or by such a combination of these considerations as the school board may deem proper.

Said salaries need not be uniform throughout all the several boroughs nor in any two of them, nor throughout any one borough. The salaries fixed and established and duly payable in the different schools of the territory hereby consolidated as these salaries were on the first day of January, 1897, shall be and remain the salaries in the schools of the several boroughs hereby constituted, until the same shall be changed or modified as provided for in this section.

Id. Duties of secretary: chief clerk and secretary may administer oaths.

Sec. 1,092. The secretary of a school board shall have charge of the rooms, books, papers and documents of the board, and shall, in addition to his duties as secretary of the board, perform such other duties as may be required of him by its members or committees. The secretary and the chief clerk of a school board are hereby authorized to administer oaths and take affidavits in all matters pertaining to the schools of the city of New York in their borough, and for that purpose shall possess all the powers of a commissioner of deeds, but shall not be entitled to any fees or emoluments thereof.

Id. Power to establish kindergartens, etc.

Sec. 1,093, A school board shall have power to establish kindergartens, manual training schools, trades schools and truant schools,

Id. Power to establish evening schools, etc.: may establish, discontinue and consolidate schools in boroughs.

Sec. 1,094. A school board shall have power to establish and to conduct evening schools and schools for colored pupils, and to regulate such schools, and shall have power to establish new schools, to discontinue any school, or to consolidate schools in its borough, and to maintain free lectures for workingmen and workingwomen.

Id. Power to establish special classes for persons who cannot use the English language readily.

Sec. 1,095. A school board shall have power to provide special classes, whose sessions shall be held at such times in the day or evening as said board may determine, for the purpose of giving instruction in the English language to persons who cannot use that language readily and whose avocations are such as to prevent their attending the grammar, primary, or evening schools.

Id. Power to establish high schools, etc.

Sec. 1,096. A school board shall have power to provide one or more high schools and train-

ing schools or classes for teachers in the borough or boroughs under its charge, as it may, from time to time, determine, and as the appropriations may permit, and all training schools and all high schools heretofore established and maintained by the public school authorities and registered as high schools by the regents of the state of New York, shall be maintained in full efficiency. The said training schools or classes shall be under the control of the board of education and of the city superintendent of schools to the extent that may be necessary to secure compliance with chapter one thousand and thirty-one of the laws of eighteen hundred and ninety-five. The said high schools shall be so organized as to furnish the benefit of further education to pupils of both sexes who shall have finished the grammar school course, and to other residents of school age equally prepared, and the said school board shall have power to make, from time to time, for the said high schools all needful rules and regulations, and to prescribe conditions on which pupils shall be received and instructed therein and discharged therefrom.

Id. Power to create school inspection districts, discretionary. Mayor appoints inspectors. Terms, organization, etc., of inspectors.

Sec. 1,097. A school board in its discretion may divide the borough or boroughs under its charge into as many school inspection districts as it may deem necessary, which districts must be contiguous and, as near as may be, of equal population; and at once upon the making of such districts it shall file maps of the same, duly authenticated by the chairman of the school board, in the office of the mayor of the city of New York.

School inspection districts existing in any of the boroughs at the time this act takes effect, shall continue as such until changed under the provisions of this section; and all inspectors of common schools who have been duly appointed to serve therein shall serve out the terms for which they were respectively appointed and their successors shall be appointed by the mayor as their terms respectively expire, for the like period of five years.

If any school board, pursuant to the powers conferred upon it by this chapter, shall have divided or re-divided its territory into school inspection districts, then the mayor shall, within sixty days thereafter, appoint in and for each of the school inspection districts of the boroughs so divided, five inspectors of common schools, to hold office respectively as may be designated in their letters of appointment, for one, two, three, four and five years from the first day of October next following their appointments. Upon the expiration of their respective terms the mayor shall appoint their successors for the full term of five years.

Subject to the conditions of contiguity and equality of population as hereinbefore prescribed, each school board shall have power every five years, if it shall have once divided its territory into inspection districts, again to divide it into such districts and to make changes in existing districts, or in their number; and if such number of districts be increased, the mayor shall forthwith appoint, in the same manner and with like effect as herein provided, as many additional inspectors of common schools as may be necessary to afford five inspectors in each district. Such additional inspectors shall be subject to the same bylaws and regulations as govern the other inspectors in the same borough, and shall perform the same duties. All inspectors of common schools shall serve without pay, and shall be residents of the districts in and for which they are appointed. Any vacancy in the office of inspector of common schools caused by death, resignation or otherwise, shall be filled by the mayor for the unexpired term. The inspectors appointed for the respective districts in any borough shall organize in every year on the second Monday of October, by the election of two of their members as chairman and secretary respectively; and they shall meet as often as may be necessary for the efficient performance of the duties imposed upon them.

Duties of inspectors of common schools.

Sec. 1,098. The duties of the inspectors of common schools are stated and fixed to be as follows and not otherwise: In their respective districts, they shall visit and inspect at least once in every quarter, all the schools in the district, in respect to punctual and regular attendance of the pupils and teachers, the number and fidelity of the teachers, the studies, progress, order and discipline of the pupils; the cleanliness, safety, warming, ventilation and comfort of school premises; and whether or not the provisions of the school laws in respect to the teaching of sectarian doctrines or the use of sectarian books have been violated, and shall call the attention of the board of education, or of the proper school board of the borough, as the case may be, without delay, to every matter requiring official action. Every inspector shall, on or before the first day of January, April, July and October of each year, make a written report to the proper school board in respect to the condition of the schools, the efficiency of teachers, and wants of the district, especially in regard to schools and school premises.

School boards in boroughs to cause accounst and records to be made and kept.

Sec. 1,099. The school boards shall cause to be kept, in conformity with the bylaws of the board of education, accurate accounts of all moneys received and paid for or on account of the schools in its borough, and it shall not be lawful to expend any money received for use from one of the school funds for purposes provided for in the other school fund, but all expenditures must be made conformable to the purposes for which said funds were levied, collected, apportioned and distributed, and said board shall cause a statement to be entered in said accounts in conformity with said bylaws, of the movable property belonging to each school. The board of education shall provide the proper book or books, in form as required by said bylaws, and shall cause the class teachers under the direction and supervision of the principal teacher of each school and department to enter the names, ages and residences of the scholars attending the school, the name of the parent or guardian of each pupil and the days on which the scholars shall have attended respectively, and the aggregate attendance of each scholar during the year, and also the day upon which the school shall have been visited by the city superintendent or by the borough superintendent, or by associate superintendents, or by members of the board of education, or by members of the school board, or by the inspectors of schools, if such there be in the borough, or by any of them, which entry shall be verified by such oath or affirmation of principal teacher in such school or department as may be prescribed by the board of education. The school board shall preserve these books as the property of the school, and such books shall at all times be open to access by members of the board of education, by members of the school boards and by the city superintendent, or by any borough superintendent, or associate superintendent, or any inspector of schools, if such there be in the borough.

Id. To provide for payment of salaries to principals and teachers and for disbursements.

Sec. 1,100. A school board in and for its own borough or boroughs and subject to the bylaws of the board of education of the city of New York shall, by its bylaw, provide for the payment of the salaries of all principals and teachers of the various schools under its charge; and for all disbursements chargeable to the general school fund apportioned to it for educational purposes therein.

Id. Annual and other reports.

Sec. 1,101. Each school board shall make an annual report to the board of education of such matters as the board of education may, by its bylaws or regulations, require, and it shall be the duty of any school board to report to the board of education from time to time upon any subject that the board of education may by its resolution require.

Id. Power to appoint and remove borough superintendents and associate superintendents of schools. Qualifications.

Sec. 1,102. A school board shall have power by a vote of a majority of its members in office, to appoint a borough superintendent of schools for six years. It shall have power to appoint for a like term not more than one associate borough superintendent of schools for the first seven hundred teachers in the schools under its charge, and not more than one additional associate borough superintendent for every additional three hundred and fifty teachers, or fractional number thereof greater than one-half; provided, however, that there shall be, in any event, two associate borough superintendents in the boroughs of Queens and Richmond, respectively.

The board of education shall have power from time to time to modify the basis of the number of teachers upon which the borough school boards may appoint associate superintendents; and if the said board of education shall at any time so change this basis, the respective school boards shall have power to appoint such number of associate superintendents as may be provided for by the terms of such new basis.

The superintendent of schools appointed by a school board shall be known as the borough superintendent, and the associate superintendents appointed by a school board shall be known as associate superintendents. Any borough superintendent or any associate superintendent may be removed for cause at any time by a three-fourths vote of all of the members appointed to the school board by which he was appointed.

No person shall be eligible for election as city superintendent, borough superintendent or associate superintendent who has not one of the following qualifications: (a) Graduation from a college or university recognized by the University of the state of New York, together with at least five years of successful experience in teaching or in supervision since graduation; (b) Ten years' successful experience as superintendent, supervising principal or teacher in a graded school.

Id. Appointment and resignation of principals and teachers.

Sec. 1,103. Principals shall be appointed by the school boards in their respective boroughs on the nomination of the board of borough superintendents. Principals, branch

principals, supervisors, heads of departments, teachers, assistants and all other members of the teaching staff, shall be appointed by the school boards on the like nomination. Teachers shall be promoted or transferred from one class to another by the school board, or in accordance with its bylaws, on the nomination of the borough board of superintendents. For all purposes affecting the appointment, promotion or transfer of the teachers in any school, the principal of such school shall have a seat in the borough board of superintendents, with a vote on all propositions affecting his school.

The system or mode of nomination in this section provided for shall not be held to deprive any school board that has been a board of education, of the right to appoint, to promote and to transfer principals, teachers and other members of the teaching staff without such nomination, in any borough in which, at the time this act takes effect, said board of education enjoys such right of appointment without nomination by superintendents, until the same shall have been adopted by the school board of such borough.

The nominations thus provided for must be made from the list of properly certificated principals and teachers and other persons eligible for service in the schools of the borough in the positions to be filled. The time within which said school board shall finally act upon said nominations, either by appointing such principal or teacher or other officer or by rejecting such nominations, is hereby fixed at forty days from the date of the first regular meeting of the school board next after the filing of such recommendation in the office of the secretary of the board. The failure on the part of a school board to confirm or to reject a nomination within the time prescribed herein shall be held as equivalent to the appointment of the principal or teacher nominated. In case of a failure or of repeated failures to appoint, other names shall be submitted to the school board for its consideration within two weeks after each failure, until an appointment is made.

Resignations of borough superintendents and of associate superintendents shall be made to the school board. Resignations of principals and teachers and of all other members of the teaching staff shall be made to the borough superintendent.

Id. Changing grades of schools and classes. Fixing standard of qualification for principals and teachers.

Sec. 1,104. A school board shall have power to change the grades of all schools and of all classes of any high school or other school under its charge upon the written recommendation of the borough board of superintendents, and upon the same recommendation to adopt and modify courses of study therefor. A school board shall also have power to fix a standard of qualification as a necessary requirement for the service of all principals and teachers in the high schools and schools of the borough, which requirement may be higher, but not lower than the minimum qualifications established by the board of education of the city of New York.

Id. Bylaws governing transfers of principals and teachers.

Sec. 1,105. A school board shall have power to make bylaws governing all transfers of principals or of teachers from one school to another school in its borough, and relative to the reception of any teacher transferred from one borough to another borough.

Id. Transfer of unemployed principals or teachers.

Sec. 1,106. A school board shall have power upon the written recommendation of the borough superintendent to transfer principals or teachers who may be unemployed by reason of the closing or discontinuance of any school, to any other school in the borough where a vacancy may exist.

Id. Board of superintendents of the boroughs; how duties regulated.

Sec. 1,107. A borough superintendent and the associate superintendents therein shall constitute the board of superintendents for the borough, to be known as the borough board of superintendents. A school board in and for its borough shall have power to pass bylaws regulating the duties of its borough superintendent, of its associate superintendents and of the board of superintendents for the borough. The borough superintendent shall preside over the board of superintendents of the borough, and all communications from the board shall be made in his name unless in any special case he may otherwise elect.

General duties of borough superintendents and associate superintendents.

Sec. 1,108. The borough superintendents and the associate superintendents shall visit every school in their respective boroughs, and shall inquire into all matters relating to the government, courses of study, methods of teaching, discipline and conduct of such schools, and the condition of the school houses and of the schools generally, and shall examine classes when necessary. The borough superintendents shall report the result of such inspections and examinations to the school board and to the city superintendent, who shall transmit such parts of said reports as he may consider necessary or proper to the board of education of the city of New York, and they shall also report to the city superintendent at such times, concerning such matters and in such form as said superintendent shall require. It shall further be the duty of the borough superintendent, and of each associate superintendent, through him, to report to the school board of the borough any case of gross misconduct, neglect of duty or general inefficiency on the part of any principal or teacher or other member of the educational staff within his jurisdiction.

Borough board of superintendents. List of principals, etc., to be kept by. Where principals report.

Sec. 1,109. The borough board of superintendents shall keep a list of all principals and other teachers in the service of the board of education in the said borough or boroughs, with the dates of their appointment, the grades and classes taught by them, the results of all inspections and examinations, and of their standing as regards regularity and punctuality in attendance. Such lists shall be open to the inspection of teachers (as to their own records only), of members of the board of education, of the members of the school board and of principals. Principals shall report to the borough superintendent at such times upon such matters and in such form as he may require.

Id. Promotion of pupils: transfer of teachers by city superintendent of schools: preferment where schools are consolidated or discontinued.

Sec. 1,110. Each borough board of superintendents shall establish for the schools under their charge rules and regulations for the promotion of pupils from grade to grade, from school to school, for graduation from all grades of schools, and for the transfer of pupils from one school to another.

With the consent of the teacher and of the principal and the school board concerned, the city superintendent of schools shall have power to transfer a teacher from a school in one borough to a school in another borough, provided that the teacher possesses the qualifications to teach in the borough to which said teacher is to be transferred, as such qualifications are prescribed both by the board of education and by the school board of the borough concerned. All such transfers shall be reported forthwith to the school boards of the boroughs in which the schools affected are situated.

In case of the consolidation of schools or of the discontinuance of any school, principals and teachers of good standing, who thereby may be deprived of employment, shall be preferred in appointments to be made in any of the schools of the borough.

Id. Recommendations of and requisitions for text books and scholastic supplies.

Sec. 1,111. The borough board of superintendents may recommend to the school board text books, apparatus and other scholastic supplies required in the schools of the borough, which, when approved or modified by the school board, shall upon its requisition, or upon the requisition of the borough superintendent, made in conformity with its bylaws, be supplied by the board of education. Requisitions may be made by principals under regulations to be approved by the school board, and the same must be approved by the borough superintendent.

Miscellaneous provisions as to powers and duties of borough superintendent, borough board of superintendents and principals.

Sec. 1,112. Subject to the bylaws of the school board, the borough superintendent, or other appropriate officer, shall assign to their duties such special teachers in drawing, music, physical culture, manual training, sewing, cooking, kindergarten work, or other special branches, as the school board of the borough may appoint; and such teachers shall be responsible to the principal of each school to which they are assigned for the performance of their duties therein, and shall report to him and also to the borough superintendent as these officers may respectively require, unless othewise ordered by the school board.

Id. Qualifications for special branches.

Sec. 1,113. A borough superintendent shall have a seat in the school board of his borough with the right to speak on all matters before the board, but not to vote. Subject to the approval of the borough board of superintendents and as the bylaws of such board may prescribe, the principal of each school shall direct the methods of teaching in all classes under his charge except that the school board may adopt bylaws to govern in the case of special classes. The board of borough superintendents shall have the power from time to time to issue syllabuses of the topics in the various branches taught which shall be regarded as the minimum amount of work required in such branches.

The borough superintendent of the boroughs of Queens and of Richmond respectively is hereby authorized, with the approval of the school board of the respective boroughs, to designate certain principals as supervising principals to aid the board of superintendents in their work of supervision.

No person shall be eligible for election as

supervisor of a special branch, as music, drawing, kindergarten, etc., who is not (a) a graduate of a high school or of an institution of equal or higher scholastic rank; and (b) a graduate from a course of professional training of at least one year in the special branch that he is to supervise or teach; and (c) a teacher of that special branch with at least three years of successful experience.

Charges against principal and teachers and others; proceedings thereon.

Sec. 1,114. A member of a school board, a borough superintendent, or an asociate superintendent may prefer charges to the school board against a principal, a branch principal, a supervisor, a head of department, or any other officer exercising supervising powers in the schools under their charge, or against a teacher in any of the schools under their charge, for gross misconduct, insubordination, neglect of duty, or general inefficiency. Pending trial, the school board may suspend said principal or teacher or other officer, with or without pay, and appoint a substitute in his place.

In accordance with bylaws to be passed by the school board, the principal of any school shall have the like power to suspend a teacher in his school, and shall forthwith report such suspension to the borough superintendent, who shall immediately report it to the school board. Pending action by the school board, the borough superintendent may appoint a substitute in the place of any teacher so suspended.

The school board, on receiving notice of charges under the provisions of either of the foregoing paragraphs, shall immediately proceed to try and determine the case, either in the board or by a committee of its body, and shall fix the fine, penalty, or punishment, if any, that should be imposed for the offense; and such fine, penalty or punishment shall consist of a fine, in suspension for a fixed time without pay, or in dismissal. The report of any committee holding such trial shall be subject to final action by the board, which may reject, confirm, or modify the conclusions of the committee, and the decision of the board shall be final, except as to matters in relation to which, under the general school laws of the state, an appeal may be taken to the state superintendent of public instruction. In case the principal or other officer or teacher is acquitted, he shall be restored to his position with full pay for the period of suspension. In all trials authorized by this chapter, all testimony taken shall be under oath, which the president of the board or chairman of the committee conducting the trial is hereby authorized to administer, and the supreme court shall have power, upon the application of such president or chairman, to compel any witness who may be summoned, to appear and testify before said board or committee.

Powers of investigation.

Sec. 1,115. The board of education or any school board may investigate, of its own motion or otherwise, either in the board or by a committee of its own body, any subject of which it has cognizance or over which it has legal control, including the conduct of any of its members or employees; and for the purpose of such investigation, such board or its president, or committee and its chairman, shall have and may exercise all the powers which a school board has or may exercise in the case of a trial under section 1,114 of this act. Any action or determination of a committee appointed under the provisions of this section shall be subject to approval or reversal by the board appointing it, which may also modify the determination of the committee in such way as the board shall deem proper and just, and the judgment of the board thereon shall be final.

Borough superintendent. Enforcing compulsory education law. Nominating, assigning, suspending and discharging clerks.

Sec. 1,116. The borough superintendent shall enforce the compulsory education law, and shall nominate attendance officers to the school board, and shall direct such officers in their duties. He may suspend or discharge and such officer for cause, but such officer shall have the right of appeal to the school board. He shall nominate to the school board such clerks as may be required in his office and as may be authorized by the school board, and he shall assign them to their various duties. He may suspend or discharge them for cause, but in such case the clerks shall have the right of appeal to the school board.

Continuation in office of all employes under the public school system of any part of the territory consolidated.

Sec. 1,117. All superintendents, assistant or associate superintendents, and all principals, teachers and other members of the educational staff in the public school system of any part of the city of New York as constituted by this act, shall continue to hold their respective positions and to be entitled to such compensation as is now provided or may hereafter be provided by the various school boards, subject to the limitations of this act and to reassignment or to removal for cause, as may be provided by law. On the first day of February, 1898, the city superintendent of schools in the city of New York as constituted prior to the passage of this act, shall be and become the superintendent of schools of the boroughs of Manhattan and the Bronx; and the assistant superintendents of the city of New York as then constituted, shall be and become associate superintendents of the boroughs of Manhattan and the Bronx; the superintendent of public instruction of the city of Brooklyn as constituted prior to the passage of this act, shall be and become the superintendent of schools of the borough of Brooklyn; and the associate superintendents of the city of Brooklyn as then constituted, shall become associate superintendents of the borough of Brooklyn. The duties of all of these officers, on and after February 1, 1898, shall be entirely defined and limited by the provisions of this act. All persons transferred by this section to the service of the consolidated city who hold office for definite terms, shall be transferred for the remainder of their respective terms only.

School money appropriation by the state to the public schools of the city.

Sec. 1,118. Whenever the clerk of the city shall receive notice from the state superintendent of public instruction of the amount of moneys apportioned to the city of New York for the support and encouragement of common schools therein, he shall immediately lay the same before the municipal assembly of said city; and the chamberlain of the said city shall apply for and receive the school moneys apportioned to the said city as soon as the same becomes payable, and place the same in the city treasury.

School board of the borough of Brooklyn to control and administer the public school teachers' retirement fund created by chapter 656, laws of 1895. Composition of fund. Retirement and pensions of teachers.

Sec. 1,119. The school board of the borough of Brooklyn is hereby given the full care and management of the public school teachers' retirement fund, created by chapter six hundred and fifty-six of the laws of 1895. When a teacher is transferred to another borough having a teachers' retirement fund, his or her contribution may be paid into the said fund and inure to the teacher's benefit in that fund under the rules governing the same.

TITLE 2.

THE COLLEGE OF THE CITY OF NEW YORK.

To continue as a separate corporation.

Sec. 1,127. The College of the City of New York shall continue to be a separate and distinct organization and body corporate, and as such shall have the powers and privileges of a college, pursuant to the revised statutes of this state, and be subject to the provisions of the said statutes relative to colleges, and to the visitation of regents of the university, in like manner with the other colleges of the state.

Trustees.

Sec. 1,128. The members of the board of education of the city of New York, together with the president of the college, shall be ex-officio the trustees of the said college, and shall have and possess the powers conferred upon, and be subject to the duties required of the trustees of colleges by the revised statutes. The president of the college shall be a member of the executive committee of the said trustees for its care, government and management.

Laws applicable.

Sec. 1,129. All acts of the legislature, which were in force on March thirtieth, eighteen hundred and sixty-six, in regard to the free academy, and to its control, management, support and affairs, not since modified or repealed, and which are not inconsistent with the provisions of this act, and all laws in force at the time this act takes effect relative to the College of the City of New York, not inconsistent with this act, are hereby declared to be applicable to the said college.

Participation in state literature and other funds.

Sec. 1,130. The College of the City of New York shall be entitled to participate in the distribution of the income of the literature and other funds in the same manner and upon the same conditions as the other colleges of the state, and the regents of the University of the State of New York shall pay annually to the controller of the city of New York, as trustee for said college, the distributive share of the said funds to which the said College of the City of New York shall, by law, be entitled, and which shall be applied and expended for library books for the said college.

Duty of trustees to report.

Sec. 1,131. It shall be the duty of the trustees of said college, annually on or before the first day of September, to report to the board of estimate and apportionment such sum, not exceeding one hundred and seventy-five thousand dollars in any one year, as they may require for the payment of the salaries of the professors and officers of said college; for obtaining and furnishing scientific apparatus, books for the students and all other necessary supplies therefor; for repairing and altering the college buildings; and for the support, maintenance and general expenses of said college; and the said board of estimate and apportionment and the municipal assembly of the city of New York are hereby authorized

and directed in each and every year to raise and collect by tax on the estate, real and personal, liable to taxation in said city, such sum of money, not exceeding the amount aforesaid, as may be reported to them by said trustees; the amount so to be raised and collected to be in addition to the sums required for the purposes of common schools in the city of New York under the act entitled "An Act to amend, consolidate and reduce to one act the several acts of the state of New York relative to the common schools of the city of New York," passed July 3d, 1851, and the several acts amendatory thereto.

Upon the recommendation of the trustees the board of estimate and apportionment and the municipal assembly may increase, from time to time, the amount annually to be raised in the tax levy for the maintenance of the College of the City of New York.

Instruction to be furnished gratuitously: degrees and diplomas.

Sec. 1,132. The board of education, as trustees of said college, shall continue to furnish, through the College of the City of New York, the benefit of education, gratuitously, to boys who have been pupils in the common schools of the city, and to all other male students who are actual residents of said city, and who are qualified to pass the required examination for admission to said college. And the trustees, upon the recommendation of the faculty of the said college, may grant the usual degrees and diplomas in the arts to such persons as shall have completed a full course of study in the said college.

Reports by trustees to be furnished.

Sec. 1,133. The trustees of the College of the City of New York shall make and transmit, annually, on or before the first day of February in each year, to the municipal assembly, and also to the secretary of the board of regents of the University of the State of New York, a report, dated on the thirty-first day of December next preceding, which report shall state the names and ages of all the pupils instructed in such college during the preceding year, and the time that each was so instructed, specifying which of them have completed a full course of study therein, and which have received degrees, medals and other special testimonials, a particular statement of the studies pursued by each pupil since the last preceding report, together with the books such student shall have studied, in whole or in part, and if in part, what portion; an account or estimate of the library, philosophical and chemical apparatus, and mathematical or other scientific instruments belonging to such college; the names of the instructors employed in said college and the compensation paid to each; what amount of moneys the board of education received during the year for the purposes of such college, and from what sources, specifying how much from each, and the particular manner and the specific purposes for which such moneys have been expended; and such other information in relation to education in the said college, and the measures of the board of trustees in the management thereof, as the municipal assembly, or the regents of the University of the State of New York may, from time to time, require.

TITLE 3.

THE NORMAL COLLEGE.

The Normal college of the city of New York, a corporation and college.

Sec. 1,139. The Normal College of the City of New York is hereby declared to be a separate and distinct organization and body corporate, and as such shall have the power and privileges of a college pursuant to the revised statutes of this state, and be subject to the provisions of the said statutes relative to colleges, and to the visitation of the regents of the university, in like manner with the other colleges of the state.

Id. Trustees, powers and duties of trustees.

Sec. 1,140. The members of the board of education of the city of New York, together with the president of the Normal college, shall be ex-officio the trustees of said college and shall have and possess the powers conferred upon and be subject to the duties required of the trustees of colleges by the revised statutes. The president of the college shall be a member of the executive committee of the said trustees for its care, government and management.

Id. Laws applicable to. Participation in state literature and other funds.

Sec. 1,141. All acts of the legislature now in force with regard to the said Normal college, its control, management, support and affairs, not inconsistant with the provisions of this act, are hereby declared to be applicable to said college. The Normal College of the City of New York shall be entitled to participate in the distribution of the income of the literature and other funds of the state in the same manner and upon the same conditions as the other colleges of the state, and the regents of the University of the state of New York shall pay annually to the controller of the city of New York, as trustee for said college, the distributive share of the said funds to which the said Normal college of the city of New York shall by law be entitled and which shall be applied and expended for library books for said college.

Id. Trustees to report annually the amount required to pay salaries, etc. Such amount to be raised by taxation. Municipal assembly may increase amount named herein.

Sec. 1,142. It shall be the duty of the trustees of said college annually on or before the fifteenth day of October to report to the board of estimate and apportionment such sum not exceeding one hundred and fifty thousand dollars in any one year, as they may require for the payment of the salaries of the professors and officers of the said college, for obtaining and furnishing scientific apparatus, books for the students and all other necessary supplies therefor, for repairing and altering the college buildings, and for the support, maintenance and general expenses of said college; and the said board of estimate and apportionment, and the municipal assembly of the city of New York are hereby authorized and directed, in each and every year to raise and collect by tax on the estate, real and personal, liable to taxation in said city and county, such sum of money, not exceeding the amount aforesaid, as may be reported to them by said trustees, the amount so to be raised and collected to be in addition to the sums required for the purposes of common schools in the city of New York, under the act entitled "An act to amend, consolidate and reduce to one act the several acts of the state of New York, relative to common schools of the city of New York," passed July third, eighteen hundred and fifty-one, and the several acts amendatory thereto. Upon the recommendation of the trustees, the board of estimate and apportionment and the municipal assembly may increase from time to time the amount annually to be raised in the tax levy for the maintenance of the normal college.

Id. Instruction to be furnished gratuitously. Degrees and diplomas.

Sec. 1,143. The said board of education as trustees of said college shall continue to furnish through the Normal College of the City of New York, the benefit of education gratuitously to girls who have been pupils in the common schools of the city of New York as constituted by this act for a period of time to be regulated by the board of trustees of said college, and to all other girls who are actual residents of said city, and who are qualified to pass the required examination for admission to said college; and the board of trustees upon the recommendation of the faculty of the said college, may grant the usual degrees and diplomas in the arts to such persons as shall have completed a full course of study in the said college. The said board of trustees shall give normal instruction in manual training for the purpose of preparing teachers of manual training for the common schools.

Id. Annual report of trustees.

Sec. 1,144. The trustees of the Normal College of the city of New York shall make and transmit annually, on or before the first day of February in each year, to the municipal assembly and also to the secretary of the board of regents of the University of the State of New York, a report dated on the last secular day of December, next preceding, which report shall state the names and ages of all the pupils instructed in said college during the preceding year, and the time that each was so instructed, specifying which of them have completed a full course of study therein, and which have received degrees, medals and other special testimonials; a particular statement of the studies pursued by each pupil since the last preceding report together with the books such student shall have studied, in whole or in part, and if in part, what portions; an account or estimate of the library, philosophical and chemical apparatus and mathematical or other scientific instruments belonging to said college; the names of the instructors employed in said college and the compensation paid to each; what amount of moneys the board of trustees received during the year for the purposes of said college, and from what source, specifying how much from each, and the particular manner and the specific purposes for which such moneys have been expended, and such other information in relation to education in the said college, and the measures of the board of trustees in the management thereof, as the board of education or the regents of the University of the State of New York may from time to time require.

Id. Money appropriated for to be expended when required by trustees. Contracts by trustees.

Sec. 1,145. The moneys apportioned to the board of education of said city of New York by the board of estimate and apportionment and municipal assembly for the payment of the salaries of the professors and officers of said college, for obtaining and furnishing scientific apparatus, books for the students and all other necessary supplies therefor, for repairing and altering the college buildings, and for the support, maintenance and general expenses of said college, shall be expended for said normal college when required by the trustees of the normal college of the city of New York, with the same right, power and authority as if the said college were under the control of the

board of education of the city of New York. All contracts entered into, or liabilities incurred by said trustees involving the expenditure of more than one thousand dollars, except agreements for the payment of salaries, shall be entered into and incurred in the manner and subject to the restrictions and limitations provided as to other expenditures of public moneys as provided for in this act.

TITLE 4.

GENERAL PROVISIONS.

Religious sects and dogmatic books excluded: Bible retained.

Sec. 1,151. No school shall be entitled to or receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect shall be taught, inculcated or practiced, or in which any book or books, containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect shall be used, or which shall teach the doctrines or tenets of any other religious sect, or which shall refuse to permit the visits and examinations provided for in this chapter. But nothing herein contained shall authorize the board of education or the school board of any borough to exclude the holy scriptures, without note or comment, or any selections therefrom, from any of the schools provided for by this chapter, but it shall not be competent for the said board of education to decide what version, if any, of the holy scriptures, without note or comment, shall be used in any of the schools; provided that nothing herein contained shall be so construed as to violate the rights of conscience, as secured by the constitution of this state and of the United States.

Certain private schools authorized to participate in common school fund.

Sec. 1,152. The school established and maintained by the Five Points House of Industry, in the city of New York, the school established and maintained by the Ladies' Home Missionary society of the Methodist Episcopal church, at the institution in Park street, near the place usually called the Five Points, in the said city, and the industrial schools established and maintained under the charge of the Children's Aid society, in the city of New York, shall participate through the school board of the boroughs of Manhattan and the Bronx, in the distribution of the common school fund in the same manner and degree as the common schools in the city of New York, and shall be subject to the same regulations and restrictions as are now by law imposed on the common schools of New York.

Id. To report as to moneys and attendance.

Sec. 1,153. The board of education shall require from the officers conducting schools by appointment of the board, and from the trustees, managers, or directors of the corporate schools entitled to participate in the apportionment of school moneys, a report in all respects similar to that heretofore required in the city of New York from the trustees of each ward. And in making the apportionment among the several schools, no share shall be allotted to any school or society from which no sufficient annual report shall have respects similar to that formerly required in the city of New York as constituted prior to the passage of this act from the trustees of each ward. And in making the apportionment among the several schools, no share shall be allotted by any school board to any school or society from which no sufficient annual report shall have been received, for the year ending on the last day of June immediately preceding the apportionment.

Certain additional private schools authorized to participate in school funds.

Sec. 1,154. The New York orphan asylum school, the Roman Catholic orphan asylum school, the schools of the two half orphan asylums, the school of the Society for the Reformation of Juvenile Delinquents, in the city of New York, the School for the Leake and Watt's Orphans House, the school connected with the alms house of said city, the school of the Association for the Benefit of Colored Orphans, the schools of the American Female Guardian Society, the school established and maintained by the New York Juvenile Asylum, by the New York Infant asylum, by the Nursery and Child's hospital, including the country branch thereof; the orphan asylums and industrial schools as existing in the city of Brooklyn at the time of the passage of this act, and the several schools and branches thereof, the schools organized under the act entitled "An act to extend to the city and county of New York the provisions of the general act in relation to common schools, passed April 11, eighteen hundred and forty-two," or an act to amend the same, passed April 18, eighteen hundred and forty-three, or an act entitled "An act more effectually to provide for common school education in the city and county of New York, passed May 7, eighteen hundred and forty-four," or any of the acts amending the same, and such schools as may be organized under the provisions of this chapter shall be subject to the general supervision of the board of education, and shall be entitled, through the proper school boards, to participate in the apportionment of the school moneys, as provided for in this chapter, but they shall be under the immediate direction of their respective trustees, managers and directors, as herein provided.

Id. Accidental omission to report.

Sec. 1,155. Whenever an appointment of the public money shall not be made to any school, in consequence of any accidental omission to make any report required by law, or to comply with any other regulation or provision of law, the board of education may, in its discretion, direct an apportionment to be made to such school, according to the equitable circumstances of the case, to be paid out of the public money on hand, or if the same shall have been distributed out of the public money to be received in a succeeding year.

Id. Trustees of such schools may convey to corporation and become merged.

Sec. 1,156. The trustees, managers, and directors of any of the corporate schools entitled to participate in the apportionment of the school moneys, may, at any time, convey their school houses and sites to the corporation of the city of New York, and transfer any of their schools to the board of education, on the terms and in the manner to be agreed upon and prescribed by the board of education so as either to merge the said schools in the public schools or adopt them as public schools; and the same shall then be public schools, subject to all the rules, duties, and liabilities, and enjoy the same rights as if they had been originally established as public schools.

Nautical school to be established.

Sec. 1,157. The board of education is authorized and directed to provide and maintain a nautical school in said city, for the education and training of pupils in the science and practice of navigation; to furnish accommodations for said school, and make all needful rules and regulations therefor, and for the number and compensation of instructors and others employed therein; to prescribe the government and discipline thereof, and the terms and conditions upon which pupils shall be received and instructed therein, and discharged therefrom, and provide in all things for the good management of said nautical school. And said board shall have power to purchase the books, apparatus, stationery, and other things necessary or expedient to enable said school to be properly and successfully conducted, and may cause the said school or the pupils, or part of the pupils, thereof to go on board vessels in the harbor of New York, and take cruises in or from said harbor for the purpose of obtaining a practical knowledge in navigation and of the duties of mariners. And the said board are hereby authorized to apply to the United States government for the requisite use of vessels and supplies for the purpose above mentioned.

Nautical school; management of.

Sec. 1,158. The said board of education shall appoint annually at least three of their number who shall, subject to the control, supervision and approbation of the board, constitute an executive committee, for the care, government and management of such nautical school, under rules and regulations so prescribed, and whose duty it shall be, among other things, to recommend the rules and regulations which they deem necessary and proper for such school.

Id. Chamber of commerce to appoint committee to serve as council.

Sec. 1,159. The chamber of commerce of New York is authorized to provide for and appoint a committee of its members to serve as a council of the nautical school, whose duty it shall be, as far as may be, to advise and co-operate with the board of education in the establishment and management of such school and from time to time to visit and examine the same, and to communicate in respect thereof, with the board of education, or such executive committee thereof, and to make reports to the chamber of commerce, which may transmit to the state superintendent of public instruction such reports, or any thereof, or an abstract of the same, with such recommendations as may be deemed advisable.

Id. Expenses.

Sec. 1,160. After the establishment and organization of the said school, the expenses thereof, and of carrying out the provisions of this chapter, shall be defrayed from the moneys raised by law for the support of common schools in the city of New York.

New York institution for the blind.

Sec. 1,161. The board of education is hereby authorized and required to distribute to the managers of the New York Institution for the Blind a ratable proportion of the said school fund to every blind pupil in said institution, without regard to age.

CHAPTER XIX.

DEPARTMENT OF HEALTH.

Title 1. Powers and duties of the department, its officers and administration.
Title 2. Marriages, births and deaths.
Title 3. Duties of physicians and others.
Title 4. Legal proceedings and punishment for disobedience of orders and ordinances.
Title 5. Reimbursement of expenses.

Title 6. Abatement by suit.
Title 7. Tenement and lodging houses.
Title 8. Pension fund.

TITLE 1.

ORGANIZATION, ADMINISTRATION, AUTHORITY, DUTIES AND POWERS OF DEPARTMENT.

The board of health the head of the department of health.

Section 1,167. The head of the department of health shall be called the board of health. Said board shall consist of the president of the board of police, the health officer of the port, and three officers called commissioners of health, who shall be appointed by the mayor, and shall hold their respective offices as provided in chapter IV of this act as designated by the mayor.

Authority, duty and powers of the board of health.

Sec. 1,168. The authority, duty, and powers of the department of health shall extend over the city of New York, and the waters adjacent thereto, within the jurisdiction of said city, and over the waters of the bay within the quarantine limits as established by law, but shall not be held to interfere with the powers and duties of the commissioners of quarantine or the health officer of the port. It shall be the duty of the department of health to make an annual report to the mayor of the city of New York, of all the operations of the department for the previous year. The mayor may at any time call for a fuller report, or for a report upon any portion of the work of said department, whenever he may deem it to be for the public good so to do.

All the authority, duty and powers heretofore conferred or enjoined upon the health departments, boards of health, health and sanitary officers in any of the municipal and public corporations or parts thereof, in any of the territory now within or hereafter to become a part of the city of New York, as constituted by this act, and within the jurisdiction of said city, by chapter seventy-four of the laws of eighteen hundred and sixty-six, and the several acts amendatory thereof, and by any other subsequent laws of this state, and upon the several officers and members of said boards, by the laws constituting and appointing all such departments, boards of health, and sanitary officers and members of said boards, by the laws constituting and appointing all such departments, boards of health, and sanitary officers, and giving and granting to them, or any of them, duties and powers not inconsistent with the provisions of this act, are hereby conferred upon and vested in and enjoined upon, and shall hereafter be exclusively exercised in the city of New York by the department of health, and board of health, created by this act, and by the officers of said board of health and the said department of health, and the same are to be exercised in the manner specified in said chapter seventy-four of the laws of eighteen hundred and sixty-six, and the several acts amendatory thereof, and by any other subsequent laws of the state relative to health and sanitary matters, and the prevention of pestilence and disease in said city of New York, or in any part thereof, and in conformity with the provisions of this act.

Duty of board as to enforcement of laws. Information.

Sec. 1,169. It shall be the duty of said board of health to aid in the enforcement of, and so far as practicable, to enforce all laws of this state, applicable in said district, to the preservation of human life, or to the care, promotion or protection of health; and said board may exercise the authority given by said laws to enable it to discharge the duty hereby imposed; and this section is intended to include all laws relative to cleanliness, and to the use or sale of poisonous, unwholesome, deleterious, or adulterated drugs, medicine or food, and the necessary sanitary supervision of the purity and wholesomeness of the water supply and the sources thereof for the city of New York. And said board is authorized to require reports and information at such times and of such facts, and generally of such nature and extent, relative to the safety of life and promotion of health as its bylaws or rules may provide, from all public dispensaries, hospitals, asylums, infirmaries, prisons and schools, and from the managers, principals and officers thereof; and from all other public institutions, their officers and managers, and from the proprietors, managers, lessees, and occupants of all theaters and other places of public resort or amusement in said district; but such reports and information shall only be required concerning matters, or particulars, in respect of which, it may, in its opinion, need information, for the better discharge of its duties in said city of New York and every part thereof.

It is hereby made the duty of the officers, institutions and persons so called on, or referred to, to promptly give such information and make such reports verbally or in writing as may be required by said board.

The board of health shall use all reasonable means for ascertaining the existence and cause of disease or peril to life or health and for averting the same throughout said city and shall promptly cause all proper information in possession of said board to be sent to the local health authorities of any city, village or town in this state which may request the same and shall add thereto such useful suggestions as the experience of said board may supply.

It shall be the duty of said board, so far as it may be able, without serious expense, to gather and preserve such information and facts relating to death, disease and health from other parts of this state, but especially in said city, as may be useful in the discharge of its duties and contribute to the promotion of health or the security of life in the state of New York.

It shall be the duty of said board to give all information that may be reasonably requested concerning any threatened danger to the public health to the health officer of the port of New York and to the commissioners of quarantine of said port; who shall give the like information to said board; and said board and said officers and quarantine commissioners shall, so far as legal and practicable, co-operate together to prevent the spread of disease and for the protection of life and the promotion of health within the sphere of their respective duties. Said board may grant bills of health to masters of vessels, certifying to the condition of the city in respect of health.

Hospitals.

Sec. 1,170. Said board may remove or cause to be removed to a proper place, to be by it designated, any person sick with any contagious, pestilential or infectious disease; shall have exclusive charge and control of the hospitals for the treatment of such cases, and shall have power to provide and pay for the use of proper places to which to remove such persons as well as to designate such places. The board of health is authorized and empowered to erect, establish, maintain and furnish, upon North Brothers island and in such other places within the city of New York as are now used for such purposes, buildings and hospitals for the care and treatment of persons sick with contagious diseases, and shall have the exclusive charge and control of the said buildings and hospitals. It shall have power to take possession of and occupy for temporary hospitals any building or buildings in the said city, during the prevalence of an epidemic, if in the judgment of the board the same may be required, and shall pay for private property so taken a just compensation for the same. Said board may cause proper care and attendance to be given to persons sick or removed, when it shall be made to appear to the said board that any such person is so poor as to be unable to procure for himself such care and attendance, or that the public health requires special medical care and attendance. The board of health may send to such place as it may direct, all aliens and other persons in the city, not residents thereof, who shall be sick of any infectious, pestilential or contagious disease. The expense of the support of such aliens or other persons shall be defrayed by the corporation of the city of New York, unless such aliens or other persons shall be entitled to support from the commissioners of emigration. No person shall remove any person sick with infectious, contagious or pestilential disease from any vessel or other place in said city without a written permit from the board of health.

Repairs of building.

Sec. 1,171. The powers of the board of health shall be construed to include the ordering and enforcing in the same manner as other orders are provided to be enforced, the repairs of buildings, houses and other structures; the regulation and control of all public markets (so far as relates to the cleanliness, ventilation and drainage thereof, and to the prevention of the sale or offering for sale of improper articles therein); the removal of any obstruction, matter or thing in or upon the public streets, sidewalks or places which shall be in its opinion liable to lead to results dangerous to life or health; the prevention of accidents by which life or health may be endangered, and generally the abating of all nuisances. It is hereby expressly declared that the said board of health shall have and possess full and complete power with reference to the ventilation, drainage and cleanliness of the stands or stalls in or around all markets, and said board shall have in said city all common law rights to abate any nuisance without suit, which can or does in this state belong to any person whatever.

Sanitary code.

Sec. 1,172. The sanitary code adopted and declared as such at the meeting of the board of health of the health department of the city of New York, held in the city as formerly constituted and bounded on the second day of June, one thousand eight hundred and seventy-three, as amended in accordance with law, is hereby declared to be binding and in force in the city constituted by this act, and shall continue to be so binding and in force, except as the same may, from time to time, be revised, altered, amended or annulled by the board of health as herein provided. And it shall be the duty of said board, immediately upon organization under this act, to cause to be conformed to this title the sanitary code of ordinances, adopted by the existing department of health, and the departments and boards of health existing in the several parts of the city of New York before the passage of this act, which shall be called the sanitary

code. Said board of health is hereby authorized and empowered, from time to time, to add to or to alter, amend or annul any part of the said sanitary code, and may therein publish additional provisions for the security of life and health in the city of New York and distribute appropriate powers and duties to the members and employes of the department of health, not inconsistent with the constitution or laws of this state. The board of health may embrace therein all matters and subjects to which, and so far as, the power and authority of said department of health extends, not limiting their application to the subject of health only. But no such revision, alteration or amendment shall take effect or be binding or in force, until the same has been published once a week for two successive weeks in the City Record. The publication of additional provisions in, and of, additional ordinances of the sanitary code once a week for two successive weeks in the City Record shall be sufficient, and render any further publication of the same in any other newspaper unnecessary. Any violation of said code or its amendments shall be treated and punished as a misdemeanor, and the offender shall also be liable to pay a penalty of fifty dollars, to be recovered in a civil action in the name of the department of health of the city of New York, before any justice or tribunal in said city, having jurisdiction of civil actions; and all such justices and tribunals shall take jurisdiction of such action.

Copies of the record of the proceedings of said board, of its rules, regulations, ordinances, bylaws and books and papers constituting part of its archives, and the sanitary code, now or hereafter in force in said city, and the ordinances of the sanitary code added thereto and adopted by said board of health, when authenticated by its secretary, or secretary pro tem., shall be presumptive evidence, and the authentication taken as presumptively correct in any court of justice, or judicial proceeding, when they may be relevant to the point or matter in controversy, of the facts, statements, and recitals, therein contained.

Judicial notice of seal and presumptions.

Sec. 1,173. The actions, proceedings, authority and orders of said board of health shall at all times be regarded as in their nature judicial, and be treated as prima facie just and legal. All meetings of said board shall in every suit and proceeding be taken to have been duly called and regularly held, and all orders and proceedings to have been duly authorized, unless the contrary be proved. All courts shall take judicial notice of the seal of said board and of the signature of its secretary and chief clerk.

Seal.

Sec. 1,174. The board of health may design and adopt a seal, and use the same in the authentication of its orders and proceedings, commissioning its officers and agents, and otherwise, as the rules of the board may provide. Said board may enact such bylaws, rules and regulations as it may deem advisable, in harmony with the provisions and purposes of this chapter, and not inconsistent with the constitution or laws of this state, for the regulation of the action of the said board, its officers and agents, in the discharge of its and their duties, and from time to time may alter, annul or amend the same.

Publication of reports and statistics.

Sec. 1,175. The board of health may establish as it shall deem wise, and to promote the public good and public service, reasonable regulations as to the publicity of any of the papers, files, reports, records and proceedings of the department of health; and may publish such information as may, in its opinion, be useful, concerning births, deaths, marriages, sickness, and the general sanitary conditions of said city, or any matter, place or thing therein. Said department shall prepare and keep the statistics of tenements and lodging-houses, and make semi-annual reports upon the same, and transmit such statistics to the state board of health.

Proceedings relative to dangerous buildings, vessels, places and things.

Sec. 1,176. Whenever any building, erection, excavation, premises, business pursuit, matter or thing, or the sewerage, drainage or ventilation thereof, in said city, shall, in the opinion of said board, whether as a whole or in any particular, be in a condition or in effect dangerous to life or health, said board may take and file among its records what it shall regard as sufficient proof to authorize its declaration that the same, to the extent it may specify, is a public nuisance, or dangerous to life or health; and said board may thereupon enter in its records the same as a nuisance, and order the same to be removed, abated, suspended, altered or otherwise improved or purified, as said order shall specify; and if any party served with such order (or intended to be according to this chapter), shall, before its execution is commenced, or within three days after such service or attempted service, apply to said board, or the president thereof, to have said order or its execution stayed or modified, it shall then be the duty of said board to temporarily suspend or modify said order or the execution thereof, save in cases of imminent danger from impending pestilence, when said board may exercise extraordinary powers, as herein elsewhere specified, and to give such party or parties together, as the case in the opinion of the board may require, a reasonable and fair opportunity to be heard before said board, and to present facts and proofs, according to the rules or directions of said board, against said declarations and the execution of said order, or in favor of its modification, according to the regulations of the board; and the board shall enter in its minutes such facts and proofs as it may receive and its proceedings on such hearing, and any other proof it may take; and thereafter may rescind, modify or reaffirm its said declaration and order, and require execution of said original, or of a new or modified order to be made, in such form and effect as it may finally determine. Said board may order or cause any excavation, erection, vehicle, vessel, watercraft, room, building, place, sewer, pipe, passage, premises, ground, matter or thing, in said city or adjacent waters, regarded by said board as in a condition dangerous or detrimental to life or health, to be purified, cleaned, disinfected, altered or improved; and may also order any substance, matter or thing, being or left in any street, alley, water, excavation, building, erection, place or grounds (whether such place where the same may be public or private), and which said board may regard as dangerous or detrimental to life or health, to be speedily removed to some proper place; and may designate or provide a place to which the same shall be removed, when no such adequate or proper place, in the judgment of said board, is already provided. If said order is not complied with, or as far complied with as said board of health may regard as reasonable, within five days after such service or attempted service, or within any shorter time which, in case of pestilence, the board of health may have designated, or is not thereafter speedily and fully executed, then any such order may be executed as herein elsewhere provided in regard to any of the orders of said board. And if personal service of any aforesaid order cannot be made under this section by reason of absence from said district, or inability to find one or more of the owners, occupants, lessees, or tenants of the subject matter to which said order relates, or one or more of the pesons whose duty it was to have done what is therein required to be done, as the case may render just and proper in the opinion of said board; to be shown by the official certificates of the officer having such order to serve, then service may be made through the mail, or by a copy left at the residence or place of business of the person sought to be served, with a person of suitable age and discretion, and the expenses attending the execution of any and all such orders respectively shall be a several and joint personal charge against each of the owners or part owners, and each of the lessees and occupants of the building, business, place, property, matter or thing to which said order relates, and in respect of which said expenses were incurred; and also against every person or body who was by law or contract bound to do that in relation to such business, place, street, property, matter or thing, which said order requires, and said expenses shall also be a lien on all rent, compensation due, or to grow due, for the use of any place, room, building, premises, matter, or thing, to which said order relates, and in respect of which, said expenses were incurred; and also, a lien on all compensation due or to grow due for the cleaning of any street, place, ground, or thing, or for the cleansing or removal of any matter, thing or place, the failure to do which by the party bound so to do, or the doing of the same in whole or in part by order of said board, was the cause or occasion of any such order or expense. Said board of health, its assignee, or the party who has, under its order or that of the police board, acting thereunder, incurred said expense, or has rendered service for which payment is due, and as the rules of said board of health may provide, may institute and maintain a suit against any one herein declared liable for expenses as aforesaid, or against any person, firm or corporation, owing, or who may owe, such rent or compensation, and may recover the expenses so incurred under any order aforesaid. And only one or more of such parties liable or interested may be made parties to such action as the board may elect; but the parties made responsible as aforesaid for such expenses shall be liable to contribute, or to make payment as between themselves, in respect of such expenses and of any sum recovered for such expenses or compensation, or by any party paid on account thereof, according to the legal or equitable obligation existing between them.

Extraordinary expenditures.

Sec. 1,177. The department of health may use, in compensation of special inspectors, physicians and nurses, and for supplies and contingencies, such sum, not exceeding in the aggregate eighty thousand dollars, in excess of the annual appropriation, as may be at any time appropriated by the board of estimate and apportionment for the prevention of danger from contagious or infectious diseases found to exist in said city, or for the care of persons exposed to danger from contagious or infectious diseases.

Declaration of imminent peril.

Sec. 1,178. In the presence of great and imminent peril to the public health by reason of impending pestilence, it shall be the duty of the board of health, having first taken and filed among its records what it shall regard as sufficient proof to authorize its declaration

of such peril, and having duly entered the same in its records, to take such measures, and to do and order and cause to be done, such acts and make such expenditures (beyond those duly estimated for or provided) for the preservation of the public health (though not herein elsewhere or otherwise authorized) as it may in good faith declare the public safety and health demand, and the mayor shall in writing approve. But the exercise of this extraordinary power shall also, so far as it involves such excessive expenditures, require the written consent of at least three members of the board of health, and the approval aforesaid of the mayor. And such peril shall not be deemed to exist except when, and for such period of time, as the board of health and mayor shall declare.

Bureaus.

Sec. 1,179. There shall be two bureaus in the department of health. The chief officer of one bureau shall be called the "sanitary superintendent," who, at the time of his appointment, shall have been, for at least ten years, a practicing physician, and for three years a resident of the city of New York, and he shall be the chief executive officer of said department. The chief officer of the second bureau shall be called the "registrar of records"; and in said bureau shall be recorded, without fees, every birth, marriage and death, and all inquisitions of coroners, which shall occur, or be taken within the city of New York. But in cases of inquests, where the jury shall find that the death was caused by negligence or malicious injury, only a copy of the record need be filed in said bureau.

Offices and expenses.

Sec. 1,180. The board of health may fit up and furnish such offices and such branch offices in each and every borough provided for the department of health in accordance with law, as the convenience of the department, its officers, agents and employes, and the prudent and proper discharge of the duties of the department may require; and may, subject to the other provisions of this act, make such incidental and additional expenditures, having due regard to economy, as the purposes and provisions of this chapter, and the dangers to life and public health may justify or require; and may provide that any failure of any officer, agent, or employe of the department to duly fulfill his engagements or discharge his duty shall cause a forfeiture of the whole, or any less portion of the salary or compensation of such officer, agent, or employe, as the rules or practice of the department may provide.

Borough offices to be maintained.

Sec. 1,181. The board of health shall establish and maintain in the boroughs of Manhattan, the Bronx, Brooklyn, Queens and Richmond, offices wherein the business and duties of the department of health shall be performed and discharged under its rules, regulations and control. To this end the board of health shall appoint assistant sanitary superintendents, and assistant registrars of records, one of each of such officers to be assigned to each of the five borough offices above mentioned, and so many of the other officers, clerks, inspectors and subordinates allowed, pursuant to this chapter, as may be necessary to conduct and transact the business of the health department, in each of the said boroughs. In such borough offices, the board of health shall preserve the records, files, reports and papers belonging and pertaining to the borough in which the office is located. In the general office of the health department in the borough of Manhattan, shall also be preserved and kept, both for record and the use of the board of health, the archives of the department of health, and all the records, books, reports, files and papers belonging and pertaining to the general administration of the health department, and the business and transactions of the board of health, as well as those which belong to, and have special reference to, the business and transactions, and the discharge of the duties and powers of the health department in the borough of Manhattan. The board of health may likewise establish such other additional offices as it shall deem necessary for the proper discharge of the duties and powers of the health department in the several boroughs, with such force as may be essential thereto throughout the city as constituted by this act, but shall always maintain its chief office in the borough of Manhattan.

Delegation of powers.

Sec. 1,182. The board of health may from time to time delegate any portion of its powers to the sanitary superintendent or an assistant sanitary superintendent, to be exercised by such delegate for the time and in the manner, and to the extent specified in such delegation in writing. Provided, however, that this section shall not be construed in restraint of the general power of the board of health to discharge its duties through any and all of its appointees. The department of health shall have a secretary, who shall, subject to the direction of the board of health, keep and authenticate the acts, records, papers and proceedings of the department of health, preserve its books and papers, conduct its correspondence, and aid generally in accomplishing the purposes of this chapter. The board of health may designate a clerk to be the chief clerk of the department, and a clerk in each of the offices of the five boroughs above mentioned, to be an assistant chief clerk, who may perform such duties of the secretary as shall be assigned to him; and papers certified by such chief clerk or by an assistant chief clerk shall be of the same effect as evidence and otherwise as if certified by the secretary.

Duty of sanitary superintendents.

Sec. 1,183. It shall be the duty of the sanitary superintendent and the assistant sanitary superintendents, as each may be directed, to execute or cause to be executed, the orders of said department of health, and generally, according to instructions, to exercise a practical supervision in respect to the inspectors, agents and persons other than the secretary, and health commissioners, and as to the members of the police force who may exercise any authority under this chapter; and said officers shall devote their services to the aforesaid purposes, as the board of health may, from time to time direct. Each such superintendent shall make reports weekly or oftener, if directed by the board of health, in writing, stating generally his own action and that of his subordinates, and the condition of the public health in said city, or any portion thereof, and any causes endangering life or health which have come to his knowledge during that period.

Reports of, and inspection.

Sec. 1,184. The sanitary superintendent, the assistant sanitary superintendents, the sanitary inspectors and the officers of said department may visit all sick persons, who shall be reported to the department of health as sick of any contagious, pestilential or infectious disease and report to the department of health, in writing, his or their opinion of their sickness. He, or they, shall visit and inspect all vessels coming to the wharves, landing places or shores of said city, or within three hundred yards thereof, which are suspected of having on board any infectious or contagious disease, or likely to communicate the disease to the inhabitants of said city, and all stores and places within the said city, which are suspected to contain putrid or unsound provisions or other articles likely to communicate disease to the inhabitants, and make and sign a report in writing, stating the vessel, stores, places and articles so inspected by him or them, and the nature, state and situation thereof, and his or their opinion in relation thereto, as to the probability of disease being communicated by or from the same, and file such report in the chief office of the department of health.

Sanitary inspectors.

Sec. 1,185. The board of health shall appoint and commission at least fifty sanitary inspectors, and shall have power to appoint twenty additional sanitary inspectors, if it deems that number necessary, and from time to time to prescribe the duties and salaries of each of said inspectors, and the place of their performance, and of all other persons exercising any authority under said department, except as herein specially provided; but thirty of such inspectors shall be physicians of skill and of practical professional experience in said city. The additional sanitary inspectors heretofore duly appointed and commissioned, either in New York city or in the city of Brooklyn, may be included among the sanitary inspectors mentioned in this section, and may continue to act as such without reappointment, but nothing herein contained shall curtail any of the powers vested in the department of health by this act, and the number of sanitary inspectors for whom provision is made in this section shall be exclusive of the special inspectors for whom provision is made in section 1,186 and elsewhere in this act. All of the said inspectors shall have such practical knowledge of scientific or sanitary matters as qualify them for the duties of their office. Each of such inspectors shall once in each week make a written report to said department, stating what duties he has performed, and where he has performed them, and also such facts as have come to his knowledge connected with the purposes of this chapter as are by him deemed worthy of the attention of said department, or such as its regulations may require of him; which reports, with the other reports herein elsewhere mentioned, shall be filed among the records of the said department.

Sanitary engineering service.

Sec. 1,186. The board of health may, from time to time, engage a suitable person or persons to render sanitary engineering service and to make or supervise practical and scientific sanitary investigations and examinations in the city requiring engineering skill, and to prepare plans and reports relative thereto.

Badges.

Sec. 1,187. The board of health may provide a badge of metal with a suitable inscription thereon, and direct and require it to be worn, in a position to be designated by any person or officer under the authority of said department, at such times and under such circumstances as the rules and bylaws of said department shall direct.

Examinations and surveys.

Sec. 1,188. The members of the board of health, the health commissioners, the sanitary superintendent, the assistant sanitary superintendents, and any of the sanitary inspectors, and such other officer or person as

may, at any time be by said board of health authorized, may, without fee or hindrance, enter, examine and survey all grounds, erections, vehicles, structures, apartments, buildings, and every part thereof, and places in the city, including vessels of all kinds in the waters, and all cellars, sewers, passages and excavations of every sort, and inspect the safety and sanitary condition, and make plans, drawings and descriptions thereof, according to the order or regulations of said department. Said department may make and publish a report of the sanitary condition, and the result of the inspection of any place, matter or thing in the city, so inspected or otherwise, as aforesaid, so far as, in the opinion of the board of health, such publication may be useful.

Proofs and affidavits.

Sec. 1,189. Proofs, affidavits and examinations as to any matter under this chapter may be taken by or before the board of health or other person, as the board of health shall authorize; and commissioners of health, the secretary, the sanitary superintendent, assistant sanitary superintendents, and any member of said department shall, severally, have authority to administer oaths in such matters, and any person guilty of wilfully answering or testifying falsely therein shall incur all the pains and penalties of perjury.

Registrar of records.

Sec. 1,190. The board of health shall appoint a registrar of records and five assistant registrars of records of whom one shall be placed and have his office in each of the borough offices of the health department, and there discharge the duties and powers of the registrar of records, so far as the same shall have been committed to him by the board of health, or the registrar of records, but always subject to the direction and control of the board of health.

Id. And payment for night medical service.

Sec. 1,191. It shall be the duty of the registrar of records and each assistant registrar of records, in his borough, and where his office is located, to ascertain and report to each captain of the police whether any physician who applies for registry, as willing to respond to any call for medical attendance, as provided in this act, is in good and regular standing, and to transmit to such captain a certificate thereof. It shall be the duty of the department of health to pay at sight the fee of $3 certified to be due any physician, in accordance with the provisions of this act, and to enter such payment in a book provided for that purpose, and to take up the certificate issued therefor.

Suits and service of papers.

Sec. 1,192. Said board of health may sue or be sued in and by the proper name of "The health department of the city of New York," and not in or by the name of the members of said board or any of them and service of all process suits and proceedings against or affecting said board, and other papers may be made upon the president of said board, or upon its secretary, and not otherwise; except that, according to usual practice in other suits, papers in suit to which said board of health is a party may be served on the corporation counsel or such assistant as may be assigned by him to the health department.

Attorney.

Sec. 1,193. The corporation counsel shall assign such assistant counsel as may be needful to the department of health, as provided in chapter VII. of this act.

Salaries.

Sec. 1,194. The annual salaries to be paid to persons herein named, and appointed to the several specified positions, shall, from and after their entrance upon their duties, be as follows, and such salaries shall be in full for all services rendered by them to the city or county in any capacity whatever:

To the president of the board of health, seven thousand five hundred dollars.

To the commissioners, other than the president, six thousand dollars each.

To the sanitary superintendent, six thousand dollars.

To the secretary, five thousand dollars.

To the assistant sanitary superintendents, each three thousand five hundred dollars.

To the registrar of records, four thousand dollars.

To the assistant registrars of record, each three thousand dollars.

To the chief clerk of the department of health, three thousand dollars; and to the other clerks and employees regularly employed in the service of the department the salaries from time to time fixed and prescribed for them and their offices respectively by the board of health.

Id. And no fees.

Sec. 1,195. No salary or compensation shall be paid to, or fees demanded by, or expenses ordered to be incurred by any officer, department, or agent, or in respect to any service, expenditure or employment under the authority of any health law, ordinance, regulation or appointment in said city, unless such salary, expenditure, employment, fees or expense shall be authorized by the department of health. No municipal body or other authority shall create any office or employ any officer or agent, or incur any expense under any health laws or ordinances, or in respect of any matter concerning which said health department is by this chapter given control or jurisdiction.

No personal liability.

Sec. 1,196. No member, officer, or agents of said department of health, and no person or persons other than the department of health or the city itself shall be sued or held to liability, for any act done or omitted by either person aforesaid, in good faith, and with ordinary discretion, on behalf of or under said department, or pursuant to its regulations, ordinances or health laws. And any person whose property may have been unjustly or illegally destroyed or injured, pursuant to any order, regulation or ordinance, or action of said department of health or its officers, for which no personal liability may exist, as aforesaid, may maintain a proper action against the city for the recovery of the proper compensation or damage. Every such suit must be brought within six months after the cause of action arose, and the recovery shall be limited to the damages suffered.

Orders of the board.

Sec. 1197. The board of health, if it shall consider the public health or interests so to require, may execute orders through its own officers or agents, and means to be engaged by the board of health. Whatever expenses said board of health may lawfully and properly incur in the execution of any order, resolution or judgment aforesaid, or in executing, or in connection with its own orders, made in good faith, or in and about the discharge, in good faith, of its duties, or in satisfying any liability or judgment it may have in good faith incurred or suffered by reason of its acts, done in good faith, as aforesaid, or in satisfying any claim against its officers or subordinates, arising from their acts in the discharge, in good faith, of their respective duties, shall, so far as established, be paid out of the fund or other moneys of the department of health.

Execution may be compelled.

Sec. 1,198. All orders duly made by any of the departments of health or boards of health or health and sanitary authorities or officers, to which said department succeeded, and by their terms or necessary legal effect, to be executed in the city of New York, may be executed, and the execution thereof compelled, and the execution of such of them as are partly executed may be compelled by the department of health; and the said orders may be severally rescinded or modified by said department, with like effect, as could have been done by the department, board of health, or sanitary authority existing at the time the said orders were severally made. The said department may discharge all liens upon real estate in the city of New York, created by any board of health or sanitary authorities above mentioned, or created in proceedings instituted by the metropolitan board of health or the department of health, which succeeded thereto, in the same manner and for the same causes that, by laws existing January first, eighteen hundred and seventy, they could be discharged by the metropolitan board of health.

Right of inspection.

Sec. 1,199. It is hereby made the duty of all departments, officers and agents, having the control, charge or custody of any public structure, work, ground, or erection, or of any plan, description, outline, drawing or charts thereof, or relating thereto, made, kept or controlled under any public authority, to permit and facilitate the examination and inspection, and the making of copies of the same by any officer or person thereto by said department of health authorized.

Complaint book.

Sec. 1,200. The board of health shall cause to be kept a general complaint book, or several such books, in which may be entered by any person, in good faith, any complaints of a sanitary nature which such person thinks may be useful, with the name and residence of the complainant, and may give the names of the person or persons complained of, and the date of the entry of the complaint, and such suggestions of any remedy as may in good faith be thought appropriate, and said books shall be open to all reasonable public examination, regulated in all respects as said board may deem proper, and for the public service; and the board of health shall cause the facts in regard to such complaints to be investigated and the appropriate remedy to be applied.

Duties of owners, lessees and occupants.

Sec. 1,201. It is hereby declared to be the duty of every owner and part owner and person interested, and of every lessee, tenant, and occupant of, or in any place, water, ground, room, stall, apartment, building, erection, vessel, vehicle, matter and thing in said city, and of every person conducting or interested in business therein, or thereat, and of every person who has undertaken to clean any place ground, or street therein, and of every person, public officer, and department having charge of any ground, place, building, or erection therein, to keep, place and preserve the same

and every part, and the sewerage, drainage and ventilation thereof in such condition, and to conduct the same in such manner, that it shall not be a nuisance, or be dangerous or prejudicial to life or health.

Police department assistance.

Sec. 1,202. It shall be the duty of the police department, and of its officers and men, as said department shall direct, to promptly advise the department of health of all threatening dangers to human life or health and of all matters thought to demand its attention, and to regularly report to said board of health all violations of its rules, and of sanitary ordinances, and of the health laws, and all useful sanitary information. And said last named department shall, as far as practicable and appropriate, co-operate for the promotion of the public health, and the safety of human life, in the city. And it shall be the duty of the police department and the police board, by and through its proper officers, agents and men, to faithfully, and at the proper time, enforce and execute the sanitary rules and regulations and the orders of said board of health, made pursuant to the power of said board of health, upon the same being received in writing and duly authenticated, as said board of health may direct. And said police board is authorized to employ appropriate persons and means, and to make the necessary and appropriate expenditures, for the execution and enforcement of said rules, orders, and regulations; and such expenditures, so far as the same may not be refunded or compensated by the means hereinelsewhere provided, shall be paid as the other expenses of said board of health are paid. And in and about the execution of any order of the board of health or of the police board, made pursuant thereto, police officers and policemen shall have as ample power and authority, as when obeying any order of or law applicable to the police board, or as if acting under a special warrant of a justice or judge, duly issued, but for their conduct shall be responsible to the police board and not to the board of health.

Coroner's returns.

Sec. 1,203. The department of health may from time to time fix and define the time of making, and the form of returns and reports to be made to said department by the coroners of the city of New York, in all cases of post mortem inquests, or viewing of dead bodies held by them or any of them, and the said coroners are hereby required to conform to the directions of said department in the premises, and it shall be the duty of every coroner at once, and before holding any inquest, upon being called upon to hold an inquest as aforesaid, or notified thereof, to immediately transmit and cause to be delivered to the secretary of said department of health written notice of the fact of such call, in which shall be stated every particular then known to said coroner as to said call, the body, the place where it is and the reported cause of death. If at any time said department, or the sanitary superintendent, shall deem the protection of the public health to demand, it may, as soon as the coroner's jury or physician shall have viewed the dead body, and an autopsy thereof shall have been made, provided the coroner deems the same necessary, order the immediate burial of any dead body, or if he or it deems that the public health demands an immediate removal of said body from the place of death to another place for inquest, may likewise at any time order said removal and shall have power to cause said orders to be obeyed and executed.

Removal of dead bodies.

Sec. 1,204. It shall be the duty of the department of health to grant a permit for the removal of the body of any deceased person from the city, which has not been buried, upon receiving a certificate of the death of said person, made in accordance with its rules. It may grant a permit for the removal of the remains of any person interred within the city to a place without the same, on the application of a relative or friend of such person, when there shall appear to be no just objection to the same.

Removal of night soil and offal.

Sec. 1,205. The board of health shall have full and exclusive power and authority over the removal of night soil, and in the removal of dead animals, offal, night soil, blood, bones, tainted or impure meats and other refuse matter from said city. It is hereby charged with the duty of causing the removal of the same daily, or as often as may be necessary, and of keeping the said city clean from all matter of nuisance of a similar kind. The department, bureau or city officer of authority or authorities who shall from time to time have the management and control of the public docks, piers and slips in said city, may, with the consent of the commissioners of the sinking fund, designate and set apart for the use of the department of health of said city, suitable and sufficient slips, docks, piers and berths in slips, located as the said department of health may require, and such as should be convenient and necessary for its use in executing the duty hereby imposed upon said department of health, excepting the slips, docks and piers on the East river set apart for the use of canal boats.

Contracts for do., do., do.

Sec. 1,206. The board of health is authorized to make contracts with any responsible person or persons for the removal of said offal, dead animals, night soil and other refuse matter from the city of New York, and to require and receive security in such form and amount as the said board may approve, for the faithful performance by the person or persons aforesaid, to whom such contracts may by the said board of health, be in its discretion, awarded, of all and each of the provisions of such contracts on his or their part. The place or places of reception and deposit of, and to which such offal, dead animals, night soil and other refuse matter may be conveyed, may, from time to time be designated, and may be ordered changed by the board of health.

As to rags, hides and skins.

Sec. 1,207. No rags, hides or skins arriving in the port of New York shall be deposited in any part of the city within which the department of health shall have prohibited the packing or unpacking of salted provisions, and all such articles brought into the city contrary to the above provisions may be seized and sold by the board of health. The department of health may, however, permit sound hides and skins to be brought into any part of the city, in small quantities, and for the purpose of immediate manufacture, but not otherwise.

Unsound cotton.

Sec. 1,208. It shall be the duty of the master and owner of every vessel that shall have brought cotton into the city between the first day of May and the first day of November in any year, and of the owner and consignee of such cotton, if upon examination it shall appear damaged, or otherwise unsound, to make an immediate report thereof to the board of health. Every master, or owner, or consignee refusing or neglecting to perform the duties so enjoined, shall, for each offense, forfeit to the board of health the sum of five hundred dollars, to be recovered in a civil action by said board.

Unsound articles, or deposited contrary to orders.

Sec. 1,209. All salted, smoked, preserved or pickled provisions, and all hides, skins and cotton that may be kept or deposited in those parts of the city wherein the board of health shall prohibit the keeping, preparation, packing or repacking thereof, at the time or times when such prohibition shall be made, shall be reported forthwith by the owner or person having charge thereof to the health department, that the same may be examined, and, if necessary, destroyed or removed. If such articles, when ordered by the board of health to be removed or destroyed, shall not be forthwith removed and the order obeyed by the owner or person having charge thereof, the sanitary superintendent shall cause them to be removed to some safe place, there to remain at the risk of the owner, or, if so ordered, may destroy the same.

Putrid cargoes may be destroyed.

Sec. 1,210. The board of health, when it shall judge it necessary, may cause any cargo, or part of cargo, or any matter, or anything within the city that may be putrid or otherwise dangerous to the public health, to be destroyed or removed; such removal, when ordered, shall be to the place of deposit of offal, dead animals, and refuse matter, or such other place as the board of health shall direct; such removal or destruction shall be made at the expense of the owner or owners of the property so removed or destroyed, and the same may be recovered from such owner or owners, in an action at law by said board of health.

Penalties of disobedience.

Sec. 1,211. Every person who shall refuse or neglect to obey the directions of the preceding sections, or of the board of health pursuant thereto, in relation to provisions, putrid and other offensive articles therein mentioned, shall be considered guilty of a misdemeanor and, on conviction, shall be subject to fine and imprisonment, or both, at the discretion of the court. Such fine shall not exceed one thousand dollars, and such imprisonment shall not exceed two years.

Offensive trades.

Sec. 1,212. It shall not be lawful for any person or persons, incorporated or unincorporated, to carry on, establish, prosecute, or continue, within the city of New York, the occupation, or trade, or business of bone boiling, bone burning, bone grinding, horse skinning, cow skinning, or skinning of dead animals, or the boiling of offal, and any such establishment or establishments, or place of such business existing within said city, shall be forthwith removed out of said city, and such trade, occupation, or business shall be forthwith abated and discontinued, provided that nothing in this section contained shall apply to the slaughtering or dressing of animals for sale in said city. It shall be the duty of the board of health to ascertain whether any such trade or business is carried on, or continued, or established, within the limits aforesaid, and to make and cause an order to be served, in the same manner as other orders of said department are made and served, directing the discontinuance of said trade or business, and the removal of all offensive or

unwholesome materials or things appertaining to said trade or business.

Filling in lands.

Sec. 1,213. It shall not be lawful for any person or persons, incorporated or unincorporated, to fill in any land under or above water, within the limits of the city of New York, or on any of the islands situated within said limits and under the jurisdiction of said city, or any portion thereof, with garbage, dead animals, decaying matter, or any offensive and unwholesome material, or with dirt, ashes or other refuse, when mixed with such gabbage, dead animals or portions thereof, decaying matter or offensive and unwholesome material. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or imprisonment not exceeding six months, or both. The board of health is hereby empowered to institute prosecutions and suits for penalties for the violation of the provisions of this section and this act.

Yards and cellars.

Sec. 1,214. The board of health shall have full power and authority to make such bylaws and ordinances as said board shall, from time to time, deem necessary and proper, for the filling, draining and regulating of any grounds, yards or cellars, within the city, that may be sunken, damp or unwholesome, or which it may deem proper to fill, drain, raise, lower or regulate, and also, for causing all such lots of ground in the city adjoining the Hudson river or the East river, or Long Island sound, as it may, from time to time, think proper, to be filled with wholesome earth or other solid materials, so far into the said rivers respectively as said board shall, from time to time, deem expedient for promoting the health of the said city, and for filling or altering or amending all sinks and privies within the said city, and for directing the mode of constructing them in future, and for causing subterraneous drains to be made from the same, when said board may think it necessary.

Drainage and maps.

Sec. 1,215. Whenever in the opinion of the board of health the protection of the public health requires the drainage of any lands in the city, by means other than sewers, the said board may make an order describing the location of such lands, and directing the proper drainage thereof, and construction of drains therefor, by the commissioner or commissioners of the department of said city having jurisdiction to construct sewers in that part of city where such drainage is so required. The board of health shall thereupon cause a map to be made, whereon shall be shown the location of such proposed drains, and the lands required for the construction thereof. Such order shall be entered at length in the records of such department of health, and such map shall be filed in such health department; a copy thereof shall be filed in the office of the register of the city of New York. The board of health shall cause another copy of said map, together with a copy of such order, to be delivered to the commissioner or commissioners of the department of said city, who shall, by such order be required to construct such drains, and the said commissioner or commissioners of said department with whom a copy of the said map and order shall be so filed, shall immediately thereafter have the power, and said department is hereby directed to make and adopt proper and suitable plans for the construction of such drains.

Acquisition of rights in lands.

Sec. 1,216. It shall be the duty of such department, upon the receipt of such map and order, and imediately after it has made and adopted suitable plans for such drains, through the corporation counsel of said city, to take immediate and proper proceedings for the acquirement of a right of way over, under, or through the lands shown upon said map to be necessary for such drains, and it shall be the duty of such corporation counsel immediately to take such proceedings and conduct them to a speedy determination.

Id. Proceedings therein.

Sec. 1,217. The right of way over, under or through the lands so required for such drains shall be taken and acquired in the manner required by law for acquiring title to lands in said city to be used as public streets. Provided, however, that the time or times provided in such law for the giving or publication of any notice shall for the purposes of this section, be reduced one-half, and the time for the sitting of the commissioners of estimate and assessment to hear objections to their report is, for the purposes of this act, hereby made two days in the place of ten days. Any maps, plans or surveys, that may be required for the use of the commissioners of estimate and assessment to be appointed in such proceeding, shall be furnished by the department charged with the construction of the drains and shall be prepared and made by surveyors in the regular and stated employment of such department; neither the expense of such surveys, nor any other expenses other than the fees of the commissioners of estimate and assessment, attending the proceeding, and their necessary disbursements for clerical services in carrying out the provisions of this section, which clerical expenses shall not exceed the sum of two hundred and fifty dollars, and also for advertising, printing, or posting and notices required by law and for any other necessary incidental expense a sum, not exceeding one hundred dollars, shall be included in the assessment that may be made by such commissioners of estimate and assessment. The corporation counsel shall not be entitled to any compensation for services to be rendered by him in such proceeding other than his stated salary. The commissioners shall each be entitled to receive the following rates as compensation for their services in full: Where the drain to be constructed is five hundred feet or under in length, the sum of twenty-five dollars; where the drain exceeds five hundred feet in length, twenty-five dollars, and in addition thereto five cents per foot for each running foot of drain in excess of five hundred feet, but the compensation of each commissioner shall in no case exceed two hundred and fifty dollars.

Id. Confirmation of report of commissioners, construction and taxation.

Sec. 1,218. Upon the confirmation of the report of the commissioners of estimate and assessment by the court, the commissioner of the department in said city having the charge of the construction of such drains, as herein proposed, shall have the power, and he is hereby directed to immediately make and construct said drains. The necessary cost of such drains, together with necessary expenses of levying the assessment therefor, shall be levied, assessed and collected as provided by section 179 of this act.

Measures to prevent the spread of disease.

Sec. 1,219. It shall be the duty of the board of health:

1. To cause any avenue, street, alley, or other passage whatever to be fenced up or otherwise inclosed, if it shall deem the public safety requires it, and to adopt suitable measures for preventing all persons from going to any part of the city so inclosed.

2. To forbid all communication with the house or family infected with any contagious, infectious, or pestilential disease except by means of physicians, nurses, or messengers to carry the necessary advice, medicines and provisions to the afflicted.

3. To adopt such means for preventing all communication between any part of the city infected with a disease of a pestilential, infectious, or contagious character and all other parts of the city, as shall be prompt and effectual.

Id. Proclamation.

Sec. 1,220. The board of health may issue a proclamation declaring any place where there shall be reason to believe a pestilential, contagious or infectious disease actually exists, to be an infected place within the meaning of the health laws of this state. Such proclamation shall fix the period when it shall cease to have effect; but such period, if the said board shall judge the public health to require it, may from time to time be extended by the board of health, and notice of such extension shall be published in one or more of the newspapers of this city. The board of health may in its discretion prohibit or regulate the internal intercourse by land or water between the city of New York and such infected place; and may direct that all persons who shall come into the city, contrary to its prohibition or regulations, shall be apprehended and conveyed to the vessel or place whence they last came; or, if sick, that they be conveyed to such place as the said board shall direct. After such proclamation shall have been issued, all vessels arriving in the port of New York from such infected place shall be subject to a quarantine of at least thirty days or until the period when such proclamation shall cease to have effect as provided by the last preceding section, and shall, together with their officers, crews, passengers, and cargoes, be subject to all the provisions, regulations, and penalties in relation to vessels subject to quarantine.

Vessels removed.

Sec. 1,221. The board of health shall also possess and may exercise the following powers:

1. By order to direct any vessel lying at a place within three hundred yards of any wharf, landing place or shore of said city, and from which said board shall deem it probable that any infectious or contagious disease may be brought into said city, or communicated to the inhabitants thereof, to be removed to the distance of at least three hundred yards from any wharf, landing place or shore of said city, within six hours after a copy of such order, certified by the secretary of said department, shall be delivered to the person or persons having command of such vessel, or to the master, owner or consignee thereof; and every such person or persons, master, owner or consignee to whom such copy of such order shall be delivered shall forthwith comply with the same.

2. By order to direct to be removed to a place to be designated by the board of health

all things within the city which, in its opinion, shall be infected in any manner likely to communicate disease to the inhabitants.

Violation of orders; punishment for.

Sec. 1,222. Every person who shall violate, or neglect, or refuse to comply with any provision contained in any of the preceding sections, or in the orders made by the board of health in pursuance thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding two hundred and fifty dollars, or imprisonment not exceeding six months, or both; and all such fines when collected shall be paid to the controller. Any violation of the sanitary code shall be treated and punished as a misdemeanor, and the offender shall also be liable to pay a penalty of fifty dollars, to be recovered in a civil action in the name of the department of health of the city of New York.

Separate receptacles for ashes and garbage.

Sec. 1,223. The board of health shall cause to be enforced the provisions of the sanitary code requiring that separate receptacles be provided for ashes and rubbish, and for garbage and liquid substances, and forbidding that they be placed or kept in the same receptacle, and requiring the streets and sidewalks to be kept free from incumbrance by such receptacles, except at such times as may be designated by the commissioner of street cleaning for the collection of their contents; and for the violation of any of the said provisions of said code both the owners and occupants of all houses in the city shall be severally responsible and subject to the penalties and prosecutions imposed by said code, and all other provisions of said code and of the city ordinances relative to the cleanliness of the streets; and the board of health is empowered to institute prosecutions and suits for penalties for the violation of any such provisions.

Service of orders.

Sec. 1,224. Service of any order of said board of health shall be deemed sufficient, if made upon a principal person interested in or upon a principal officer charged with duty in respect of the business, property, matter, or thing, or the nuisance or abuse to which said order relates; or upon a person, officer or department, or one of the department who may be most interested in or affected by its execution. If said order relate to any building, or the drainage, sewerage, cleaning, purification, or ventilation thereof, or of any lot or ground on or in which such building stands, used for, or intended to be rented as, the residence or lodging place of several persons, or as a tenement house or lodging house, service of such order on the agent of any person or persons for the renting of such building, lot or ground, or for the collecting of the rent thereof, or of the parts thereof to which said order may relate, shall be of the same effect and validity as due service made upon the principal of such agent, and upon the owners, lessees, tenants, occupants of such buildings, or parts thereof, or of the subject matter to which such order relates.

Vaccination.

Sec. 1,225. For the purpose of more effectually preventing the spread of smallpox by the thorough and systematic vaccination of all unvaccinated persons, and for the relief of persons suffering with diphtheria and other infectious diseases, residing in said city, the board of health is hereby empowered to continue or organize a corps of vaccinators and of physicians, within and subject to the control of the bureau of sanitary inspection, to appoint the necessary officers, keep suitable records, collect and preserve pure vaccine lymph or virus, and produce diphtheria antitoxine and other antitoxines, and add to the sanitary code such additional provisions as will most effectually secure the end in view. Said board of health may take measures and supply agents and offer inducements and facilities for general and gratuitous vaccination, disinfection and for the use of diphtheria antitoxine and other antitoxines and may afford relief to and among the poor of said city as in its opinion the protection of the public health may require.

Sale of lymph and antitoxine.

Sec. 1,226. Whenever the amount of vaccine lymph, or virus, collected by the said corps, or of diphtheria antitoxine, and other antitoxines produced, shall exceed the amount required in the proper performance of its duties, the said board of health may authorize the sale of such surplus lymph or virus, and diphtheria antitoxine, and other antitoxines at reasonable rates, to be fixed by the board of health. The avails of such lymph or virus, and diphtheria antitoxine, and other antitoxines, shall be accounted for and paid to the chamberlain, and shall be set apart and constitute distinct funds, to be known respectively as "the fund for gratitous vaccination," and "the antitoxine fund," and they shall be subject to the requisition of the board of health for the purposes named in the preceding section.

Driving and slaughtering cattle, sheep, swine, pigs or calves regulated.

Sec. 1,227. It shall not be lawful to drive any cattle, sheep, swine, pigs or calves through the streets or avenues of the city of New York, or any of them, except at such times and in such manner as provided in the sanitary code, or as the board of health may, by ordinance, prescribe, nor shall it be lawful to slaughter any cattle, sheep, swine, pigs or calves in the city of New York, excepting in buildings located upon the water front, and so constructed as to receive all stock delivered thereat from boats, cars or transports and to secure the proper care and disposition of all parts of the slaughtered animals upon the premises or the immediate removal thereof by means of boats and under the provisions of the sanitary code and the authority and regulations of the department of health. The board of health may revoke or suspend the permit of any one who shall conduct said business of slaughtering cattle, sheep, swine, pigs or calves in violation of law and the rules and regulations of the department of health. No fat, hides, hoofs, or entrails, or other refuse parts of slaughtered animals shall be transported in said streets except under and pursuant to the terms of a permit in writing from the board of health; nor shall any buildings be erected or converted into or used as a slaughter house until the plans thereof have been duly submitted to the board of health, and approved in writing by the said board.

Extension of proclamation period.

Sec. 1,228. Whenever it shall appear to the board of health that any of the provisions of this title, limited in their operations to a certain period of the year, or designated periods of time, ought to be extended, the said board of health shall issue its proclamation extending such provisions to such a time as shall be determined on, and such provisions shall thereupon be extended accordingly and with the like effect as if the periods mentioned in such proclamation, had been originally therein enacted. If it shall appear to the board of health while such proclamation is still in force, that the necessity of extending the period therein named has ceased, the board of health, by a new proclamation declaring that fact, may revoke the proclamation issued pursuant to this section, which shall then cease to have effect.

Definitions.

Sec. 1,229. The word "nuisance," as used in this act, shall be held to embrace public nuisance, as known at common law, or in equity jurisprudence; and it is further enacted that whatever is dangerous to human life or detrimental to health; whatever building or erection, or part or cellar thereof, is overcrowded with occupants, or is not provided with adequate ingress and egress to and from the same, or the apartments thereof, or is not sufficiently supported, ventilated, sewered, drained, cleaned, or lighted, in reference to their or its intended or actual use; and whatever renders the air or human food or drink, unwholesome, are also, severally in contemplation of this act, nuisances; and all such nuisances are hereby declared illegal; and each and all persons and corporations who created or contributed thereto, or who may support, continue or maintain or retain them, or any of them, shall be jointly and severally liable for, or toward, the expense of the abatement and remedying of the same; but as between themselves, any such persons and corporations may enforce contribution or collect expenses, according to any legal or equitable relations existing between them; but nothing herein contained shall annul or defeat any common law liability or responsibility in respect of nuisances. Whenever the words "place, matter or thing," or either two of said words, are used in this act, or in titles one, four and five of this chapter, they shall, unless the sense plainly requires a different construction, be construed to include whatever is embraced in the enumeration with which they are connected.

TITLE 2.

MARRIAGES, BIRTHS AND DEATHS.

Persons solemnizing marriages to keep a registry.

Sec. 1,236. It shall be the duty of the clergymen, magistrates, and other persons who perform the marriage cermony in the city of New York, to keep a registry of the marriages celebrated by them, which shall contain, as near as the same can be ascertained, the name and surname of the parties married; the residence, age, and condition of each; whether single or widowed.

Births to be reported.

Sec. 1,237. It shall be the duty, of the parents of any child born in said city (and if there be no parent alive that has made such report, then the next of kin of such child born), and of every person present at such birth, within ten days after such birth, to report to the department of health in writing, so far as known, the date, borough, and street number of said birth, and the sex and color of such child born, and the names of the parents. It shall also be the duty of physicains and professional midwives to keep a registry of the several births in which they have assisted professionally, which shall contain, as near as the same can be ascertained, the time of such birth, name, sex and color of the child, the names and residence of parents, and to report the same within ten days to the department of health.

Deaths to be reported.

Sec. 1,238. It shall be the duty of the next of kin of any person deceased, and of each

person being with such deceased person at his or her death, and of the persons occupying or living in any house or premises in or on which any person may die, to report in writing, to the department of health, within five days after such death, the age, color, nativity, last occupation and cause of death of such deceased person, and the borough and street, the place of such person's death, and last residence. Physicians who have attended deceased persons in their last illness shall, in the certificate of the decease of such persons, specify, as near as the same can be ascertained, the name and surname, age, occupation, term of residence in said city, place of nativity, condition of life; whether single, married, widow, or widower; color, last place of residence, and direct and indirect cause of death of such deceased persons, and the coroners of the city, in such cases as an inquest may have been held, shall, in their certificates, conform to the requirements of this section.

Penalty for failure to report marriages and births to the department of health.

Sec. 1,239. For every omission of any person to make and keep the registry of marriages and births required by the preceding sections, and for every omission to report a written copy of the same to said department of health, within ten days after any birth or marriage provided to be registered, and for every omission to make the report of any death, birth or marriage, the person guilty of such omission shall be guilty of a misdemeanor; and, in addition thereto, the offender shall also be liable to pay a fine of one hundred dollars, to be recovered in the name of the department of health of the city of New York, before any justice or tribunal in said city having jurisdiction of civil actions. But no person shall be liable for such fine, or subject to arrest and imprisonment for not making the report herein required, if an excuse is presented to the board of health for such omission, which the said board shall decide to be sufficient, in which event the said board of health is hereby empowered to excuse the said omission.

Record of births, marriages and deaths.

Sec. 1,240. The department of health shall keep a record of the births, marriages and deaths reported to it; the births shall be numbered and recorded in the order in which they are received by it; and the record of births shall state, in separate columns, the place and date of birth, the name, sex and color of the child, the names and residence of the parents, as fully as they have been received, and the time when the record was made. The marriages shall be numbered and recorded in the order in which they are received by the department; and the record thereof shall state, in separate columns, the date of marriage, name, residence and official station, if any, of the persons, by whom married, the names and surnames of the parties, age, the color and conditions of each; whether single or widowed, and the time when the record was made. The deaths shall be likewise numbered and recorded, and the record thereof shall state, in separate columns, as far as the same is reported, the date of decease, name and surname, condition, whether single, married or widowed, age, place of birth, place of death, occupation, names of the parents, when an infant without name; disease, direct or indirect cause of death, color, and last place of residence of such deceased person, and the time when the record was made. Said department shall perform all the duties by this section imposed, as a part of its regular duties, and no fees shall be demanded or received by reason thereof.

Registration of births not previously recorded.

Sec. 1,241. The births of the children of actual residents of the city of New York which may have occurred during the temporary absence of the parents of such children from the city of New York, and the births of children which failed to be recorded through the neglect of the physician or other medical attendant present at such birth, may be recorded in the bureau of records of the health department of said city, in a special book, to be kept for such purpose, upon the application in such behalf by the parents or guardians of such children. Such application shall be made to the board of health, and shall be accompanied by a certificate of the physician or midwife attending professionally at such birth and personally cognizant thereof, together with the affidavit of at least two citizens, certifying to their knowledge of the facts, and that the physician or midwife making such certificate of birth is a reputable person in good standing in the community in which he or she may reside. No change or alteration shall, at any time, be made in any of the records of the said bureau of records in said city without proof satisfactory to and upon the approval of the said board of health. Transcripts of any record in said bureau of records may be given, in the discretion of the department of health, to a parent or the next of kin of any person authorized to apply for the same, but no transcripts of false or fraudulent returns made to the said bureau, nor of the entries thereof shall be given, and they shall be canceled upon due proof of the facts to the department of health. Transcripts of these records when required shall be on such forms as the board of health may prescribe, and for them the usual fees for copies of records may be received.

TITLE 3.

DUTIES OF PHYSICIANS AND OTHERS.

Report of pestilential, infectious and contagious diseases. Deaths.

Sec. 1,247. It shall be the duty of each and every practicing physician in the city of New York:

1. Whenever required by the department of health to report to said department, at such times, in such forms as said department may prescribe, the number of persons attacked with any pestilential, contagious, infectious disease attended by such physician for the twenty-four hours next preceding, stating the name of such patient and the name and place where he shall then be; and the number of persons attended by such physician, who shall have died in said city, during the twenty-four hours next preceding such report, of any such pestilential, contagious or infectious disease.

2. To report, in writing, to the said department every patient he shall have laboring under any pestilential, contagious or infectious disease, and within twenty-four hours after he shall ascertain or suspect the nature of the disease.

3. To report to the said department when required by it the death of any of his patients who shall have died of disease within twenty-four hours thereafter and to state in such report the specific name and type of such disease.

Affidavit may be required.

Sec. 1,248. The department of health may require of any physician not less than three hours after service of a demand thereof upon him, an affidavit, stating therein whether he has or has not any patient, who, in his opinion, shall then be sick of a pestilential, contagious or infectious disease, and if he has any such patient, to state in such affidavit his or her name, and the house or place in said city where he or she shall then be, and the nature or name of such disease, to the best of his knowledge and belief.

Penalty for failing to report.

Sec. 1,249. Every practising physician who shall refuse or neglect to perform the duties enjoined on him by the foregoing section shall be considered guilty of a misdemeanor, and shall also forfeit for each offense the sum of two hundred and fifty dollars, to be sued for and recovered by the department of health. It shall be the duty of each visiting, hospital and consulting physician to make an immediate report to the department of health of the name of every practising physician by whom he shall have reason to believe the provisions of said section have been violated; and if such physician shall neglect or refuse to perform his duty, the department shall order him to be suspended from any office he may hold, and he shall, moreover, be liable to such further penalty and to such prosecution for his violation of this law and of his duty as the board of health shall determine.

Boarding and lodging-house keepers may be required to report.

Sec. 1,250. Every person keeping a boarding or lodging house in the city shall, whenever required by the department of health, report, in writing, to the department the name of every person who shall be sick in his house within twelve hours after each case of sickness shall have occurred.

Masters, etc., of vessels to report.

Sec. 1,251. Every master, owner or consignee of a vessel lying at a wharf or in the harbor of the city of New York, shall make a like report, and within the same period, of the name of every sick person on board of such vessel; and no person shall be removed therefrom without a written permit for that purpose from the department of health.

TITLE 4.

LEGAL PROCEEDINGS AND PUNISHMENT FOR DISOBEDIENCE OF ORDERS AND ORDINANCES.

Order for examination before justice of supreme court.

Sec. 1,257. Any justice of the supreme court of the first or second department, or who is holding court or chambers therein, upon the written application of the board of health, may issue his order, by him subscribed, for the examination without unreasonable delay by or before such justice of any person or persons, and the production of books or papers or the inspection and taking of copies of the whole or parts thereof; at a time and place within said city, and in said order to be named; and it shall be the duty of such justice to take or superintend such examination, which shall be under oath, and shall be signed by the party or parties examined and be certified by said justice, and with any copies of books or papers, to be delivered to said health department for the use of said department. And such examination, and any proceeding connected therewith, or under said order, may wholly or in part be had, conducted or continued by or before any other of said justices, as well as that one who made said order; and in and about the same, every such justice shall have

as full power and authority to punish for contempt and enforce obedience to his said or other order or directions respecting the matter aforesaid (or that of any other judge), as any such justice of the supreme court may now have or shall possess to enforce obedience or punish contempt in any case or matter whatever. Such application shall name or describe the person or persons whose examination is sought, and, so far as possible, the books or papers desired to be inspected and the matters or points affecting life or health as to which the board of health requests the examinaion to take place, and the justice shall, on the proceedings, decide what questions are pertinent and allowable in respect thereto and shall require the same to be properly answered; but no answer of any person so examined shall be used in any criminal proceeding. Service of any order of any such justice may be made and the same proved in the same manner as the service of either an injunction or of a subpena. And it shall be the duty of said justices to facilitate the early determination of the aforesaid proceedings.

Appearance and examination of witnesses.

Sec. 1,258. Upon the application of any party in interest in any matter pending examination before said department of health, by affidavit, stating the grounds of such application, to any judge of a court of record, and asking that any person or persons therein named shall appear before said department of health, or any person taking or about to take such examination, at some time or times and place to be stated in the said affidavit, it shall be the duty of such judge, if he shall discover reasonable cause so to do, to issue his order requiring such person or persons named to appear and submit to such examination as, and to the extent, such order may state, at the time and place to be in said order named; and such order, signed by such judge, may be served, and shall in all respects be obeyed as a subpena duly issued; and a refusal to submit to the proper examination may be punished by such judge or by any judge of such court as a contempt of court, upon the facts as to such refusal being brought before any such judge by affidavit.

The health department as party plaintiff and defendant.

Sec. 1,259. In all actions and proceedings heretofore commenced and now pending, against either of the cities of New York, Brooklyn or Long Island City or the town authorities and public officers in Kings and Richmond counties and the part of Queens county, now to form a part of the city of New York, or against the department of health, board of health or sanitary officers in any part of said territory, in which any action, order, regulation, ordinance or proceeding of any of the health departments, boards of health or sanitary officers thereof, is called in question or made the subject of the action or proceeding, the department of health of the city of New York shall have the right to appear, answer and take part; and in all such actions and proceedings hereafter commenced the said health department shall be a necessary party, and have the right to appear and to take part therein. The said department may institute and maintain all suits and proceedings which are reasonable, necessary and proper, to carry out the provisions of the laws under which the said department acts, and may sue and be sued by the proper name of the department of health of the city of New York.

Injunctions when not to be granted against department.

Sec. 1,260. No preliminary injunction shall be granted against the department of health, or its officers, except by the supreme court, at a special or general term thereof after service of at least eight days' notice of a motion for such injunction, together with copies of the papers on which the motion for such injunction is to be made. Whenever said department shall seek any provisional remedy, or shall prosecute any appeal, it shall not be necessary before obtaining or prosecuting the same to give any undertaking.

Proceedings presumed legal.

Sec. 1,261. In all judicial proceedings the actions, proceedings, authority, and orders of said department shall at all times be regarded as in their nature judicial, and be treated as prima facie just and legal. In any suit, the right of said department or the police department to make any order, or cause the execution thereof, shall be presumed.

Violation of department orders, actions for.

Sec. 1,262. Whoever shall violate any provisions of this chapter, or any order of said department made under the authority of the same, or by any bylaw or ordinance therein referred to, or shall obstruct or interfere with any person in the execution of any order of said department, or any order of the police department in pursuance or execution of the orders of the department of health, or wilfully omit to obey any such order, shall be guilty of a misdemeanor, and be liable to be indicted and punished for such offense; and in cases where it was made a misdemeanor to do or omit any act or thing, when any power or authority hereby conferred upon the board of health or department of health, was exercised by any other board of health or officers, the omission or doing of such, or a corresponding act or thing, which this chapter requires, or contemplates to be done or forbids, shall in like manner be a misdemeanor, and the offender shall be liable to indictment and punishment for the same. A willful omission or refusal of any individual, corporation, or body to conform to any regulation of said department duly made for the protection of life or the care, promotion, or preservation of health, or the carrying out of the purposes of this chapter, pursuant to its power or authority, shall be a misdemeanor, and the person or officers guilty thereof shall be liable to indictment and punishment as for a misdemeanor. All prosecutions and proceedings against any person for misdemeanor under this chapter may be had or tried before any judge or tribunal having jurisdiction of any misdemeanor within said city. Any person, corporation, or body which may have wilfully done or omitted any act or thing which is, in this chapter, or by any law or ordinance, or the sanitary code referred to, declared to be, or to subject the party guilty thereof to punishment for a misdemeanor, shall, in addition thereto, be subject to a penalty of two hundred and fifty dollars, to be sued for and recovered by said department in any civil tribunal in said city. Where in any case the minimum penalty for a refusal to obey, or for a violation of any order, regulation, or ordinance of said department of health, or any law, is not fixed, the amount recovered in such case shall not be less than twenty dollars, and the judge or justice who presided at a trial where such penalty is claimed shall, on said trial, in writing, fix the amount, not contrary to said provisions, of said penalty to be recovered, and shall direct such amount so fixed to be, and it shall be included in the judgment. Any such suits may be against one or more, or all of those who participate in the act, refusals, or omissions complained of, and the recovery may be against one or more of those joined in the action as the justice of the court shall direct. The provisions of this section as to the jurisdiction of tribunals, parties and costs shall apply to all suits by said department or its assignee, or the assignees of the police department under this chapter. All processes and papers usual or necessary in the commencement and prosecution of actions, or for the collection of money in suits or proceedings under this chapter, on execution, may be served by any policeman, and in and about such matters the policeman so engaged shall have all the powers of marshals and no fees shall be charged by any court, magistrate, or clerk for the issue of any paper or process, or the performance of any duty in suits under this chapter. Any civil action brought under or by authority of this chapter may be brought in any court in said city, having jurisdiction in any civil action to an amount as large as is demanded in such action; and if judgment be rendered for the plaintiff in any amount, costs of the court in which action is brought shall also be recovered, without reference to the amount of the recovery, provided payment was demanded before suit was brought, and the defendant or defendants in the action against whom the recovery is had, did not, as the code of civil procedure authorizes, offer to pay an amount equal to the recovery against him or them, except that in cases where the recovery shall be less than $50, the amount of costs shall be $10; and in case no recovery is had, the plaintiffs shall not pay costs unless the judge or justice, at the conclusion of the trial, shall certify in writing that there was not reasonable cause for bringing the action, and in such case the costs shall not exceed $10, unless the amount claimed exceeded $50. No action shall abate, or right of action already accrued be abolished, by reason of the expiration, repeal or amendment of an ordinance, code or sanitary ordinances, or regulation of said department; nor shall any court lose jurisdiction of any action by reason of a plea that title to real estate is involved, provided the defendant is sought by the pleadings to be charged in said action on any of the grounds mentioned in this chapter, other than by virtue of ownership of such real estate. In respect to all proofs and proceedings by said department, or its agents or officers, under this chapter, papers filed shall be deemed entered upon or in the minutes of the department.

Arrests for violation of rules.

Sec. 1,263. The board of health having first entered on the minutes of department of health, or filed in its records, what it may regard as adequate proof of a violation or resistance by any persons in said city, of any law or ordinance, the authority relating to which is given to said department, or of any order made by said board or said department, may order, by warrant, under its seal and attested by the signature of its secretary, and indicating, as far as conveniently practicable, the time, place and nature of the offense committed, the arrest of any such person, and such order of arrest shall be of the same effect and shall be executed as a warrant from a justice or judge, duly issued; and the party arrested shall be taken before a magistrate, and thereupon and thereafter shall, by all officers, be treated as being, and have the

rights and liability of a party under arrest by order of the proper officer or tribunal, for a misdemeanor, of the nature indicated in said order of arrest.

Id. By member of police force or officer of department of health.

Sec. 1,264. Any member of the police force and every inspector or officer of said department of health, as the regulations of either of said departments may respectively provide relative to its own subordinates, may arrest any person who shall, in view of such member or officer, violate, or do, or be engaged in doing or committing in said city, any act or thing forbidden by this chapter, or by any law or ordinance, the authority conferred by which is given to said department of health, or who shall, in such presence, resist or be engaged in resisting the enforcement of any of the orders of said department or of the police department pursuant thereto. And any person so arrested shall be thereafter treated and disposed of as any other person duly arrested for a misdemeanor.

Id. Upon complaint of magistrate, trials, fines, etc.

Sec. 1,265. Upon the complaint of any citizen of the city, against any person for violation of any rule, sanitary regulation, ordinance or order, made to any magistrate having jurisdiction in criminal cases, such magistrate shall order the arrest of any person against whom such complaint is made, as in any other case of a criminal offense, and by his warrant may require any policeman or constable to make such arrest, and may, after such arrest, proceed summarily to try such person for such alleged offense; but no such trial shall be had on any arrest made in the city without sufficient notice thereof being first given to the department of health. And upon an application in behalf of said department, made before the trial is commenced, the trial of such person, together with the papers, shall be remitted to the court of special sessions, upon which court jurisdiction to try such persons is hereby conferred; but the right of any person to elect to be tried before a jury, as it may now exist, is not affected by any thing herein contained. If such person shall, upon such trial, be found guilty, he or she may be punished in the same manner as is provided for the punishment of persons found guilty of a misdemeanor. Reports of all such trials and of fines imposed for violations of this chapter, or the sanitary code, shall be made monthly to said department, by the justice before whom trials are had. But nothing in this section contained shall be construed as in any manner limiting any powers, penalty and punishment in this chapter elsewhere conferred.

False returns and deceptive reports; how punished.

Sec. 1,266. If any person shall knowingly make to said department of health, or any officer thereof, any false return, statement, or report relative to any birth, death or marriage, or other matter concerning which a report or return may be legally required of, or should be made by, such person; or if any member, inspector, or officer, or any agent of said department of health shall knowingly make to said department of health any false or deceptive report, or statement in connection with his duties, or shall accept or receive, or authorize, or encourage, or knowingly allow any other person to accept or receive any bribe or other compensation as a condition of or an inducement for not faithfully discovering and fully reporting, or otherwise acting, according to his duty in any respect, then any and every such person shall be deemed guilty of a misdemeanor, and shall be liable to be for such crime indicted, tried and punished according to law, and shall, in addition, forfeit all compensation due or to grow due from said department.

False personation as an officer of department; penalty.

Sec. 1,267. It shall be a misdemeanor, punishable by imprisonment in the penitentiary, for not less than one year nor exceeding two years, or by a fine of not less than $250, for any person, not an officer of or under the authority of the department of health, to falsely represent himself as such, with a fraudulent design upon persons or property, or to have, use, wear, or display, without authority, any shield, or other insignia or emblem such as is worn by such officer.

Boarding and lodging house keepers and masters of vessels.

Sec. 1,268. Every keeper of a boarding or lodging-house, and every master, owner, or consignee of a vessel who shall refuse or neglect to obey the orders and directions of the department of health, as provided by this act, shall be considered guilty of a misdemeanor, and on conviction shall be fined for each offense in a sum not exceeding $250, or be imprisoned for a term not exceeding six months.

Officers and magistrates to act promptly.

Sec. 1,269. It shall be the duty of all prosecuting officers of criminal courts and city magistrates to act promptly upon all complaints, and in all suits or proceedings for any violation of this chapter, and in all proceedings approved or promoted by said department, and to bring the same to a speedy hearing or termination and to render judgment and direct execution therein without delay.

TITLE 5.

REIMBURSEMENT FOR EXPENSES.

Joint and several liability of owners, lessees, and occupants of property, and assignment of claims for expenses of execution of orders thereon.

Sec. 1,275. It is hereby declared to be the duty, of which there shall be a joint and several liability of every owner and part owner and person interested, and of every lessee, tenant and occupant of or in, any place, water, ground, room, stall, apartment, building, erection, vessel, vehicle, matter and thing in said city, and of every person conducting or interested in business therein or thereat, and of every person who has undertaken to clean any place, ground or street therein, and of every person, public officer and board having charge of any ground, place, building or erection therein, to keep, place and preserve the same and every part, and the sewerage, drinage and ventilation thereof in such condition, and to conduct the same in such manner that it shall not be dangerous or prejudicial to life or health, subject to the ordinances of the sanitary code and the orders of the board of health. Any claim for expenses consequent upon the execution of an order of the board of health, occasioned by a violation of said duty above declared and set forth, may be assigned by the board of health to any person not an officer of the health department, who shall execute such order and perform the required work.

On what expenses to be a lien.

Sec. 1,276. The expenses attending the execution of any and all orders duly made by the board of health shall respectively be a several and joint personal charge against each of the owners or part owners and each of the lessees and occupants of the building, business, place, property, matter or thing to which said order relates, and in respect of which said expenses were incurred; and also against every person or body who was by law or contract bound to do that in regard to such business, place, street, property, matter or thing which said order requires, and said expenses shall also be a lien on all rent and compensation due, or to grow due, for the use of any place, room, building, premises, matter or thing to which said order relates, and in respect of which said expenses were incurred, and also a lien on all compensation due, or to grow due, for the cleaning of any street, place, ground or thing, or for the cleaning or removing of any matter, thing or place, the failure to do which by the party bound so to do, or doing of the same in whole or in part by order of said department, was the cause or occasion of any such order or expense.

Suit for expenses.

Sec. 1,277. Said department of health, its assignee or the party who has under its order or that of the police department, acting thereunder, incurred any expense or has rendered service for which payment is due, and as the rules of said department of health may provide, may institute and maintain a suit against any one in this chapter declared liable for expenses, or against any person, firm or corporation owing, or who may owe such rent or compensation, and may recover the expenses so incurred under any order aforesaid. And only one or more of such parties liable or interested may be made parties to such action as the department may elect, but the parties made responsible as aforesaid for such expenses shall be liable to contribute or to make payment as between themselves, in respect of such expenses, and of any sum recovered for such expenses or compensation, or by any party paid on account thereof, according to the legal or equitable obligation existing between them.

Expense of executing orders to be a lien.

Sec. 1,278. The said department, its assignee or any person acting under its authority, in executing any order of said department, shall have a lien for the expenses necessarily incurred in the execution of said order, and said expenses shall be a lien upon the land and buildings upon or in respect of which, or either of which, the work required by said order has been done, or expenses incurred, which lien shall have priority over all other liens and incumbrances, except taxes and assessments. But no such lien shall be valid for any purpose till the said department or person shall have caused to be filed in the office, or with the officer where notices of mechanics' liens are now or may be hereafter required to be filed, a notice containing the same particulars as required to be stated with reference to mechanics' liens, with the further statement that the expense has been incurred in pursuance of an order of said department, and giving its date. Upon such filing the said officer shall make the same entry on the book or index in which mechanics' liens are entered as he is required to enter in cases of mechanics' liens, together with a reference to said order by date, and

thereafter the same shall, except as hereinelsewhere provided, have the same effect in all respects as a mechanics' lien, and all proceedings with reference to said lien, its enforcements and discharge, shall be had and carried on in the same manner as similar proceedings with reference to mechanics' liens are now or may be hereafter by law had or carried on. The filing of such statement shall as to all persons have the same effect as filing of notice of mechanics' liens; and unless within two months after actual notice of such filing, proceeding are taken by the party against whom or whose said property a lien is claimed, to discharge such lien, the filing shall, as to all persons having such actual notice, become conclusive evidence that the amount claimed in such statement, with interest, is due, and is a just lien upon said land and building. Such lien shall continue to be a lien for the space of four years from the time of filing such statement, unless proceedings are in the meantime taken to enforce or discharge the same, which may be done at any time during its continuance. In case proceedings are so taken, it shall remain a lien until the final termination of such proceedings; and if such proceedings shall result in a judgment for the amount claimed in such statement, or any portion thereof, such judgment shall, to such extent, be a lien in the same manner, and from the said time as said statement.

Statement of expense of executing orders to be published.

Sec. 1,279. When the board of health shall, through its own officers and men and means have executed, or so far executed as said department may require, any order, the expenses of such execution, giving in general terms the items of such expense and the date of execution, shall be stated in an affidavit, and the same shall be filed among the records of said department with the order so executed; and said department shall take care by, or through some proper officer, or otherwise, that the expenses of such execution be so stated with fairness and accuracy; and when it shall appear that such execution, or the expenses thereof, related to several lots or buildings belonging to different persons, said affidavit shall state what belongs to, or arose in respect to each lot of said several lots or buildings, as said board of health or its authorized officer may direct; and the correctness of such apportionment of expenses, as stated in any such affidavits, shall not be called in question or reviewed elsewhere than before said board, but said board may revise and correct the same, as truth and justice may require. Whenever the expenses attending the execution of any order of said board of health may be made the subject of a suit by said department, or its assignee or the person having a right to recover such expenses, there may be joined in the same suit a claim or claims for any penalty or penalties for violations of any provisions of this chapter, or for the violation or omission to perform or obey said order (or any prior order of said department), or for the not doing of that, or any portion of that, for the doing of which, said expenses arose or were incurred, and said department may make an assignment of the claim for any such penalty or penalties, to enable the claim for the same and the claim for said expenses to be joined in the same suit; and the proper joint of several judgments may be had against one or more of the defendants in the suit, as they or either of them may be liable in respect of both said claims, or either or any of them. And said expenses of executing said order, and the expenses of executing any judgment in any abatement suit in this chapter provided for, and the several judgments that may be recovered, hereunder, or otherwise, for any such penalty or expenses, or for both such penalty and expenses together, until the same are paid or discharged, shall be a lien as other judgments, and also a lien and charge upon rent and compensation due or then maturing from any tenant or occupant of the building, lots and premises, or the parts thereof to which any such order or judgment relates, or in respect of which any such expenses were incurred. And such expenses and judgments shall respectively be a lien on all compensation due or to grow due for the cleaning of any street, place, ground, or thing, or for the cleaning or removal of any matter, thing, or place, the failure to do which by the party bound so to do, or the doing of the same in whole or in part by order of said department, was the cause or occasion of any such charge or expense. For the purpose of rendering such lien and charge more effectual to secure payment of any such expenses or judgment, from any rent or compensation aforesaid, proceedings may be taken as follows:

1. The department of health, or any person owning any such judgment, or the claim for any such expenses, or having a right to receive payment therefor, may serve a copy of the order under or by reason of which such expenses were authorized or incurred with a copy of any affidavit stating the expenses of the execution of such order, or if the claim be a judgment, may serve a transcript of such judgment and any affidavit showing the expense of its execution, if there be any, upon any person or corporation owing, or who is about to owe any such compensation, or owing or about to owe any rent or compensation for the use or occupation of any grounds, premises or building, or any part thereof, to which said order or judgment relates, and in respect of which such expenses embraced in said judgment related or were incurred, and may, at any time of such service, demand in writing that such rent, or any such compensation to the extent of said claims for said expenses, or of any such judgment or expense in executing the same shall, when such rent or compensation becomes due and payable, be paid to the department of health.

2. After the service of the papers aforesaid and such demand, any tenant, lessee, occupant, or other person owing, or about to owe, any such rent or any such compensation, shall, when such rent or any such compensation shall mature, or become payable, pay the same, and from time to time pay any other amount thereof, as the same may become due and payable, or so much thereof as is sufficient to satisfy any such judgment or claim for expenses, or both, so served, to said department of health, and a receipt shall be given therefor, stating on account of what order or judgment and expenses the same has been paid and received; and the amount so received shall be deposited where other funds of said department are kept, to the special account of such department.

3. Any person or corporation refusing or omitting, as herein directed, to make such payment to the department of health, after service of the paper and demand aforesaid, as herein required, shall be personally liable to said department of health, or to the party owning any such claim for expenses or judgment, if not belonging to said department, for the amount that should have been paid to said department according to the provisions hereof, and may by such party or health department be sued therefor; and such persons shall not in such suit, dispute or call in question the authority of said department of health to incur, or order such expense, or of its assignee therein, or the validity or correctness of such expenses or judgment in any particular, or the right of the party making such demand, or his assignee, to have the same paid from such rent or compensation. But the receipt of such department for any sum paid as aforesaid shall, in all suits and proceedings, and for every purpose, be as effectual in favor of any person holding the same, as actual payment of the amount thereof to the proper landlord, lessor, owner, or other person or persons who would, but for the provisions of this title, and of said demand, have been entitled to receive the sum so paid. And it is further expressly declared that no tenant or occupant of any lot, building or premises, or his or their assignee or lessee, shall be disposessed or disturbed, nor shall any lease or contract, or rights, be forfeited or impaired, nor any forfeiture or liability be incurred by reason of any omission to pay to any landlord, owner, lessor, contractor, party, or other person, the sum so paid to said department of health, or any part thereof.

Department to retain moneys till twelve days after notice.

Sec. 1,280. The said department of health shall retain money so paid until twelve days after it shall be made to appear to said department of health, or some proper officer thereof, by satisfactory affidavit, that the party or parties, or his or their agent for the collection of any such rent or compensation, who, but for the provisions hereof would have been entitled to receive the same, has had written notice of such payment being made; and if at the end of said twelve days the party or parties aforesaid, so notified, have not instituted suit to recover said money, as hereinafter provided, then it shall, by said department, be paid to any person who may own or have the right to recover the amount of the judgment or the claim for expenses, or so much thereof as the party may be entitled to, or on account of which the money was paid to said department, and after such payment the party or parties aforesaid shall have no right to demand or receive any such money, unless they shall within six calendar months from the expiration of said twelve days in a suit alleged that they had no notice of such payment, and shall, on the trial of such suit, prove said allegation, and also that they were not liable to pay the said claim for expenses, or the said penalty or judgment, and that the said department had not jurisdiction to order the expenses aforesaid, on account of which the money was so paid, or on which any such judgment was obtained, and in case of a recovery in such suit it shall be only to the extent that such parties were not so liable, and in such suit any person or persons who may have received said money from said department, or said department shall, by the plaintiff, be made a party defendant; and if the plaintiff shall recover such money or any part thereof, said department of health shall be entitled to any equitable judgment in such suit which the court may see fit to direct for recovering said money back, or any part thereof, from such co-defendant, which had been paid to him by said department of health.

Parties to suit brought after twelve days: costs against department.

Sec. 1,281. In case any suit shall be brought under the last section, or before the expiration of the said twelve days, said department of health shall be joined as a party defendant; and any person or persons other than said department claiming the right to

receive said money on account of said order, expenses or judgment, or who has received the same, shall also by the plaintiff be made parties defendant; and no answer need be made by said department except at its option, or further than the allegation that it holds said money so paid, and is ready to pay it over, as the result of the suit may render proper, and said money shall be held by said department pending said suit, if not paid over before suit brought as aforesaid, provided said suit be diligently prosecuted to judgment; and on its conclusion the department of health shall cause the money, if still held by it, or the proper amount from its funds, to be paid as the determination of the suit may render proper; and no costs in any suit in this section mentioned shall be recovered against the department of health. But to entitle a plaintiff to recover in any such last named suit he must make the same proof and establish the same facts as are required to enable him to recover in any suit in this title mentioned, except as to notice of payment to department.

TITLE 6.

ABATEMENT BY SUIT.

Nuisance defined.

Sec. 1,287. A wilful omission or refusal of any individual, corporation or body to forthwith abate any nuisance, as ordered by a resolution of the board of health, duly served upon them pursuant to the provisions of this act, or to conform to any ordinance of the sanitary code or any sanitary regulation of said board, duly made for the protection of life or the care, promotion or preservation of health, pursuant to its power or authority, shall be a misdemeanor, and the person or officers guilty thereof shall be liable to indictment and punishment as for a misdemeanor. In addition thereto every person, body or corporation that shall violate or not conform to any ordinance of the sanitary code, or any rule, sanitary regulation or special or general order of said board, duly made, shall be liable to pay a penalty not exceeding fifty dollars for each offense, which may be sued for and recovered by and in the name of said department of health with costs, before any justice or tribunal in said city of New York having jurisdiction of civil actions.

Suits to abate nuisances.

Sec. 1,288. For the abatement or remedying any of the nuisances mentioned or declared in this chapter or by the board of health pursuant to the authority devolved and conferred upon it by this act, the board of health may institute and maintain in any court in said city having jurisdiction in suits where the amount claimed exceeds one thousand dollars, a suit or suits at law or in equity. And all costs collected in any such action or proceeding shall be paid over to the department and accounted for by it. To all such suits the provisions of this chapter, relative to jurisdiction, costs, and parties, shall be applicable; and the courts shall allow the plaintiff, at any proper stage of the case, to amend, by joining other parties defendant; and no suit shall be dismissed or defeated by reason of there being other persons interested therein, or concerned in causing, creating or maintaining the nuisance complained of in such suit.

Id. Trial thereof.

Sec. 1,289. Such suit shall be tried as an issue of law, and without a jury, unless some defendant shall, in his answer, or by notice in writing to be served on plaintiff's attorney within five days after service of said answer, demand a trial by jury on some question of fact, to be in said answer or notice distinctly stated, and in respect of which a right of trial by jury exists, and if any such demand be so made and served, the case shall, as to all the defendants, be placed on the calendar of jury trial cases as a preferred case; and when moved for trial, if issues of fact for the jury have not before been settled, the presiding judge may state in writing the issues of fact to be submitted to the jury, or the trial shall proceed upon the material issues of fact made by the pleadings without such written statement of issues; and the judge who presided at the trial (or some judge of the same court, if said judge be unable to proceed therewith) shall, on receiving the verdict, or as soon thereafter, and at the same term, if possible, settle and cause to be entered the proper judgment in said suit.

Id. Judgment; what to contain.

Sec. 1,290. If the judgment be that any nuisance may be abated or remedied, in whole or in part, said judgment shall contain sufficient directions for its proper execution, and the judge shall, from the pleadings and the evidence given at the trial, find and state what proportion of the expense of such execution shall be paid or be borne by each or all of the defendants, jointly or severally; and if, in the opinion of the court, any part of, or all of the expense of such execution should be borne by said department of health, or the execution of such judgment should be made by said department, or under its direction, said judgment shall contain the appropriate directions in respect to such last named payment or execution. Said judgment if against any defendant, shall, on its face, state that it will be a lien on the real property, and corporeal hereditaments of such defendant or defendants respectively, to which the said nuisance shall have related, till his or their proportion of such expenses of execution are satisfied, or the lien thereof shall be otherwise discharged according to law.

Lien of judgment; how removed.

Sec. 1,291. Any person prejudicially affected by the lien of any such judgment may, on eight days' notice to said department, make a motion before any judge of the court in which said judgment was rendered, for an order that the lien of such judgment be discharged, as to all or any specific property set forth; and if it shall appear to such judge, on the hearing of such motion, that such eight days' notice of such motion has been given to the board of health, and that such judgment has been executed, and the expenses paid, which the lien sought to be discharged, was designed to secure; or, if a proper or sufficient undertaking or bond, with sureties, shall be given for the payment of such expenses; or if the board of health or its counsel shall, in writing, consent to the discharge of the last named lien, as to any or all property referred to, or as to one or more defendants, then said judge may order said lien discharged of record by the proper officer, to the extent and as to the person or persons that the order shall specify; and it shall be so discharged; and such order and the moving papers shall be filed with the proper clerk, as the judge may direct.

Appeals and stays.

Sec. 1,292. No appeal by any party defendant shall stay the execution of any judgment aforesaid, except to the extent, in reference to the persons, and on the conditions the judge who tried the case, or, some other judge of the same court, shall, on the settling of the judgment, or on motion, on four days' notice to said department of health, with due reference to the public interests involved, specially order; and if no such order shall be made, the judgment shall be executed, notwithstanding any appeal, undertaking, or security and without any liability on the part of any person by reason of any damages or consequences growing out of the execution of said judgment, whether the same be reversed or not. All appeals by the defendant from any judgment in the said abatement suits, shall be taken within ten days after notice in writing, to the defendant or his attorney, of the entry of the judgment therein, and the judge who tries the case may, in his discretion, order a stay as to the execution of the judgment, but only for the period of the said ten days, and within said period of ten days an undertaking or security on appeal must be filed, of the form and obligation required in ordinary appeals from judgments, but also to be conditioned for the payment of the appellants' adjudged share of the expenses of executing such judgment, or if not estimated in said judgment, as the judge, on application and three days' notice to said department, shall estimate the same, in conformity with the judgment, for the purpose of such security on appeal. But the execution of any judgment against the defendants shall not be delayed beyond ten days, if within that period the proper undertaking or security on appeal, approved by the judge, has not been filed, and the appeal perfected, as herein provided. The judgment may state the estimated expense that will have to be paid by any party toward executing said judgment; but the board of health may appeal in any such case, or any case to which the health department is a party within ten days after the entry of any judgment, and without giving any security; such appeal shall be effectual and shall operate as a stay on the part of the judgment in respect to which said department appeals.

Claims for penalty may be joined in abatement suits.

Sec. 1,293. In any such abatement suit said department may join a cause of action for any penalty or penalties that may have been incurred by either of the defendants, by reason of, or in connection with, the nuisance complained of, or by reason of any omission or refusal of any defendant to obey or comply with any ordinance of the sanitary code or any order of the department of health touching such alleged nuisance, and have the proper provision in any judgment therefor against one or more of the defendants. No motion for a new trial on a case made shall be entertained in any such abatement suit, except as a part of, and as arising upon the papers upon a regular appeal to the appellate division of the court, and to be heard therewith.

Judgment of appellate division; what to contain.

Sec. 1,294. The judgment of the appellate division, if it shall, to any extent, direct any change in the judgment appealed from, but shall direct, or allow or fail to forbid the judgment in part to be executed, shall also contain the requisite specific provisions, so that the judgment, as modified, may be executed, and the due proportion of the expenses of such execution may be assessed on the defendants, respectively, or on said department, as the appellate division may adjudge. There may be an appeal from the appellate division to the court of appeals, in such abatement suit, and therein the provisions hereof as to appeals from the judgment to the appellate division, and as to the security on appeal,

hall in all particulars, including the length of time given in which to take an appeal, apply, except that no undertaking on its appeal is necessary on the part of the department of health, and no change in the code of civil procedure, or otherwise, hereafter to be made, though in subject-matter applicable to said abatement suits, shall be construed to modify the aforesaid or other provisions of the health laws as to any suits thereunder, unless such act shall specifically declare such modification to be intended.

Statement of expense of execution.

Sec. 1,295. Upon the execution, in whole or in part, of any such judgment, if said department shall, as it is hereby authorized to do, decide the public interest to demand only execution in part thereof, a statement of the expenses of such execution shall be made, and such expenses shall be therein apportioned not contrary to any provisions of said judgment; and upon the same being verified by the oath of some person who, by due authority, took part in, or had charge of the execution of such judgment, or by some officer of said department, such statement, entitled in the case, may be filed or given to the proper clerk to be filed, with such judgment; and notice of such filing or delivery, and a copy of such statement shall be given to the attorneys of the defendant in the suit, or to the defendants themselves, or to some one of the joint defendants; and unless within ten days after any such notice, such defendants shall give due notice, in writing, to said department, or to the person who, as assignee, or by order, executed such judgment or is entitled to payment of such expenses, in case it was not executed by said department, of a motion, and serve therewith copies of affidavits to correct such statement in particulars to be mentioned, and separately and clearly stated in such affidavit, such statement aforesaid shall be, in all suits, and proceedings, and tribunals, and at all times, deemed and taken to be final, conclusive and correct; and no formal defect in such statement shall in any wise vitiate the same. And on any hearing of such motion, any party in interest, or said department may read affidavits in support of such original statement; and the finding of any judge on the hearing of such motion, as to the said statement of such expenses and other matters in such motion involved, or statement contained, shall be final and conclusive and not subject to appeal, and such finding or statement as modified by such finding when filed, shall be of the same effect as such original statement would have been had no motion in regard thereto been made; and for the purpose of an execution for such expense, and creating a lien under any judgment, such statements and finding or modified statement shall be regarded as a part of said judgment, and the lien thereof shall extend to any amounts stated in such final statement and finding. Insofar as any judgment may be directed to be executed at the expense of said department of health, or by any party defendant at his own expense, and shall by such party defendant be so executed, the expense of such execution shall not be stated or embraced in the aforesaid statement or finding of expenses; but if any part of the execution aforesaid, which any party should have borne or paid, shall, by reason of the delay, refusal or defective act or execution of such party, or any other cause, be paid, borne, or incurred by said department of health, in and about the execution of such judgment, then the said latter expenses of said department may be embraced in said statement and finding, and collected by execution as aforesaid.

Execution thereupon.

Sec. 1,296. For the proportion and amounts as authorized by such judgment and contained in such finding or in such statement or modified statement, when either of the same shall have become final as aforesaid, said department, or any assignee of such department, or any other person who has executed such judgment, or has otherwise a right to receive the expense of so doing, or the portion thereof that may be due from any defendant, shall have execution, on application ex parte, to a judge of the court in which the judgment was recovered, and such execution shall, in due form, be allowed by any such judge; such execution to be against any one or more defendants or joint defendants for the recovery of any amount due from such defendant, or defendants, which the party claiming such execution is entitled to receive; and such execution, except as herein especially provided, shall be of the same effect and form as any execution duly issued pursuant to any judgment. But no execution shall be issued against any defendant for less than the whole sum due from such defendant, or for less than he shall be liable to pay in such suit; but any sum adjudged against any defendant or defendants, in any such abatement suit for penalties, costs, or for other cause than the expense of the abatement or remedying of such nuisance, may be collected by separate or other executions, other than those authorized for collecting such expenses, to be issued in due course of law.

Injunction may be granted in abatement suits. Requisites.

Sec. 1,297. In any abatement suit aforesaid the court or a judge thereof, may issue and enforce an appropriate preliminary injunction, whenever it shall be asked for, by the board of health, and there shall appear to such judge to be reasonable cause therefor; and such injunction may also be granted whenever it shall be made to appear to the court or a judge thereof, by affidavit, that such injunction is needed, to prevent any illegal act, conduct, or business aforesaid, or its continuance, or to prevent any serious danger to human life or serious detriment to health, or great public inconvenience, touching any matter or thing to which this act or the health laws aforesaid relate. And in any such injunction order the court may require any building, erection, or grounds to be put in a condition that will not be dangerous to the life or detrimenal to the health of any occupant, before the same shall be leased, or rented, or occupied, or before any rent or compensation shall be collected for the rent or use of the whole or any portion of the same. In any such injunction order, and also in any judgment in any abatement suit, the judge or court may require the tenants, lessees and occupants or either or any of them, of any such building, erection, or grounds, to pay rent thereof, or compensation therefor, due or to grow due to the health department, and said department to collect and receive and apply said rent to the payment of the expenses of putting any said building, erection, or ground in a condition that will not be dangerous to the life or detrimental to the health of any present or future tenant, lessee or occupant, or of any other person; all such collections and payments to be made in such manner, to such extent, and on such conditions as the court shall by order or judgment provide; and every such payment to said department, and the receipt of its treasurer for such rent or compensation, shall be as effectual to protect any person who has made the same, and every such tenant, lessee and occupant, and all his and their rights under any lease or occupation, as if such payment had been made to, and such receipt had been given by, lessor or owner, or any proper claimant of any such rent or compensation, who had, but for such order or judgment, the right and authority to receive the same. But no undertaking or security shall be required or necessary on the part of said department as a condition of granting such injunction or the same being effectual; and in any final judgment in such suit there may be enjoined whatever, if about to happen or threatened, would be the proper subject matter of a preliminary injunction. And when the public interest seems to the court to require a speedy trial or hearing of any such suit or appeal therein, it shall be the duty of any judge or any court aforesaid, or of the court to whom application by said board may be properly made, to cause such suit or appeal to be advanced and brought to a speedy trial, and before it would otherwise be reached by trial or argument in due course on the calendar, as the judge or court may by special order direct.

Expenses of department of health to be paid out of its funds.

Sec. 1,298. Whatever expenses said department of health may lawfully and properly incur in the execution of any judgment aforesaid, or in executing or in connection with its own orders, made in good faith, or in and about the discharge in good faith of its supposed duties, or in satisfying any liability or judgment it may have in good faith incurred or suffered by reason of its acts done in good faith as aforesaid, or in satisfying any claim against its officers or subordinates, arising from their acts in the discharge, in good faith of their supposed respective duties, shall, so far as established, be paid out of its fund or other moneys appropriated to such purpose or to its use.

TITLE 7.

TENEMENT AND LODGING HOUSES.

Construction generally. Halls and windows, etc.

Sec. 1,304. Every house, building or portion thereof, in the city of New York, used, occupied, leased or rented for a tenement or lodging house must conform in its construction, appurtenances and premises to the requirements of this title, and its use and occupation shall be regulated subject to the ordinances of the sanitary code, applicable thereto, and the orders of the board of health duly made, pursuant to its authority, duty and powers conferred and enjoined upon it in this chapter. If occupied by more than one family on a floor, and if the halls do not open directly to the external air, with suitable windows, without a room or other obstruction at the end, it shall not be used, occupied, leased or rented, unless sufficient light and ventilation is otherwise provided for in said halls, approved so far as relates to construction by the department of buildings, and if the building be completed, approved so far as relates to health and sanitary conditions, by the board of health.

Definitions.

Sec. 1,305. A tenement house within the meaning of this title shall be taken to mean and include any house or building or portion thereof, which is rented, leased, let or hired out, to be occupied, or is occupied as the home or residence of three families or more

living independently of each other, and doing their cooking upon the premises, or by more than two families upon any floor, so living and cooking, but having a common right in the halls, stairways, yards, water closets or privies, or some of them. A lodging house shall be taken to mean and include any house or building, or portion thereof, in which persons are harbored, or received or lodged, for hire for a single night, or for less than a week at one time, or any part of which is let for any person to sleep in, for any term less than a week. A cellar shall be taken to mean and include every basement or lower story of any building or house of which, one-half or more of the height from the floor to the ceiling, is below the level of the street adjoining.

Roofs and stairs and fire escapes.

Sec. 1,306. The roof of every such house shall be kept in good repair and so as not to leak, and all rain water shall be so drained or conveyed therefrom as to prevent its dripping on to the ground or causing dampness in the walls, yard or area. All stairs shall be provided with proper banisters and railings and shall be kept in good repair. Every such house shall be provided with a proper fire escape or means of escape in case of fire, to be approved by the department of buildings.

Sleeping rooms. Ventilation.

Sec. 1,307. Every house, building or portion thereof in the city designed to be used, occupied, leased or rented, or which is used, occupied, leased or rented for a tenement or lodging house, shall have in every room which is occupied as a sleeping room and designed to be used, occupied, leased, or rented, or which is used, occupied, leased or rented for tenement or lodging house, shall have in every room which is occupied as a sleeping room and which does not communicate directly with the external air, a ventilating or transom window, having an opening or area of three square feet, over the door leading into and connected with the adjoining room, if such adjoining room communicates with the external air, and also a ventilating or transom window of the same opening or area, communicating with the entry or hall of the house, or where this is, from the relative situation of the rooms, impracticable, such last mentioned ventilating or transom window shall comumnicate with an adjoining room that itself communicates with the entry or hall. Every such house or building shall have in the roof, at the top of the hall, an adequate and proper ventilator, of a form approved by the department of buildings.

Water closets, privies and sinks.

Sec. 1,308. Every tenement and lodging house or building shall be provided with as many good and sufficient water closets, improved privy sinks or other similar receptacles as the department of health shall require, but in no case shall there be less than one for every fifteen occupants. The water closets, sinks and receptacles shall have proper doors, soil pipes and traps, all of which shall be properly ventilated to prevent the escape of deleterious gas and odors, soil pans, cisterns, pumps and other suitable works and fixtures necessary to insure the efficient operation, cleansing and flushing thereof. Every tenement or lodging house situated upon a lot on a street or avenue in which there is a sewer shall have a separate and proper connection with the sewer; and the water closets, sinks and other receptacles shall be properly connected with the sewer by proper pipes made thoroughly air tight. Such sewer, connection and all the drainage and plumbing work, water closets, sinks and other receptacles, in and for every tenement and lodging house shall be of the form, construction or arrangement, location, materials, workmanship and description as may be required by the rules and regulations of the department of buildings of the city of New York. Every owner, lessee and occupant shall take adequate measures to prevent improper substances from entering such water closets or sinks, or their connections, and to secure the prompt removal of any improper substances that may enter them, so that no accumulation shall take place, and so as to prevent any exhalations therefrom, offensive, dangerous and prejudicial to life or health, and so as to prevent the same from being or becoming obstructed. Every person who shall place filth, urine or fecal matter in any place in a tenement house other than that provided for the same, and every person who shall keep filth, urine or fecal matter in his apartment or upon his premises such length of time as to create a nuisance shall be guilty of a misdemeanor. No privy, vault or cesspool shall be allowed in, under or connected with any such house except when it is unavoidable, and a permit therefor shall have been granted by the department of health, and in such case it shall be constructed in such situation and in such manner as the department of buildings may direct. It shall in all cases be water tight and arched or securely covered over, and no offensive smell or gases shall be allowed to escape therefrom, or from any closet, sink or privy. In all cases where a sewer exists in the street or avenue, upon which the house or building stands, the yard or area shall be connected with the sewer, so that all water from the roof or otherwise, and all liquid filth shall pass freely into the sewer. Where there is no sewer in the street or avenue, or adjacent thereto, with which connection can be made, the yard and area shall be so graded that all water from the roof or otherwise and all filth shall flow freely therefrom into the street gutter by a passage beneath the sidewalk, which passage shall be covered by a permanent cover, so arranged as to permit access to remove obstructions or impurities.

Cellars and basements of tenement houses not to be occupied for living purposes, except in certain cases.

Sec. 1,309. It shall not be lawful, without a permit from the department of buildings, to construct, during the erection of a tenement or lodging house, nor after the completion of such tenement or lodging house, any room or rooms in any basement or cellar to be occupied wholly or in part as a dwelling, nor shall it be lawful without a permit from the department of health to let, occupy, or suffer to be occupied separately as a dwelling, any vault, cellar, or underground room, built or rebuilt after July first, 1867, or which shall not have been so let or occupied before said date. It shall not be lawful, without such permit, to let or continue to be let, or to occupy or suffer to be occupied separately as a dwelling, any vault, cellar, basement, or room wholly or in part under ground, unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof, nor unless the same be for at least two feet of its height above the surface of the street or ground adjoining or nearest to the same, nor unless there be outside of and adjoining the said vault, cellar, room or basement, and extending along the entire frontage thereof, and upward from six inches below the level of the floor thereof up to the surface of said street or ground, an open space of at least two feet and six inches wide in every part, nor unless the same well and effectually drained by means drain, the uppermost part of which is one at least below the level of the floor of vault, cellar or room, nor unless there clear space of not less than one foot below level of the floor, except where the sam cemented, nor unless there be appurte to such vault, cellar or room, the use water closet of privy kept and provided a this title required; nor unless the same h an external window opening of at least superficial feet clear of the sash frame, which window opening there shall be fi a frame filled with glazed sashes, at l four and a half superficial feet of which s be made so as to open for the purpose of tilation. In the case of an inner or b vault, cellar or room, let or occupied al with a front vault, cellar or room, as par the same letting or occupation, it shall b sufficient compliance with the provisions this section if the front room is provided w a window, as hereinbefore provided, and the said back cellar or room is connec with the front vault, cellar or room, b door, and also by a proper ventilating transom window, and where practicable, connected by a proper ventilating or trans window, or by some hall or passage commu cating with the external air. In any area joining a vault, cellar, underground room basement, there may be steps necessary access to such vault, cellar or room, if same be so placed as not to be over, across opposite to the said external window, and as to allow between every part of such st and the external wall of such vault, cellar room, a clear space of six inches at least, if the rise of said steps is open; and provid further that over or across any such a there may be steps necessary for access any building above the vault, cellar or ro to which such area adjoins, if the same so placed as not to be over, across or op site to any such external window.

Cellars and vaults not to be used for sleepi rooms.

Sec. 1,310. No vault, cellar or undergrou room shall be occupied as a place of lodging sleeping, except the same shall be approv in writing, and a permit given therefor by t board of health. No wall paper shall be plac upon a wall or ceiling of any tenement lodging house, unless all wall paper shall first removed therefrom, and said wall a ceiling thoroughly cleansed. Every teneme or lodging house, and every part thereof, sh be kept clean and free from any accumulatio of dirt, filth, garbage or other matter in or the same, or in the yard, court, passage, ar or alley connected with it, or belonging the same. The owner or keeper of any lod ing house, and the owner or lessee of any te ement house or part thereof, shall thorough cleanse all the rooms, passages, stairs, floor windows, doors, walls, ceilings, privies, ces pools and drains of the house or part of t house of which he is the owner or lessee, the satisfaction of the department of healt so often as he shall be required by or in a cordance with any order of the board health and any regulation or ordinance said department, and shall well and sufficien ly, to the satisfaction of the said health d partment, whitewash the walls and ceilin thereof once at least in every year.

Transoms, windows, doors, etc.

Sec. 1,311. All transoms, windows, doo and other openings leading into halls, or int rooms opening into halls, from bakeries places of business, in which fat is boiled

basements, cellars or on the first floors, all tenement houses in the city of New k, shall be solidly closed with the same ma- al as the walls or partitions in which the nings exist, so that there shall be no ning between said bakeries, or other places usiness of said floor in which fat is boiled, the other parts of the tenement house in ch the same shall be situated. All tran- s and windows opening into halls from any tion of said floor of any tenement house re paint, oils, spirituous liquors or drugs stored, or kept for the purpose of sale, or erwise, shall be glazed with wire glass, or y shall be removed and closed up as solidly he rest of the wall; and all doors leading such hall, or room from such portion of floor, of said tenement house used as resaid, shall be made fireproof.

tain occupations and business prohibited in enement houses.

ec. 1,312. Every tenement or lodging house ll have the proper and suitable conveni- es or receptacles for receiving garbage and er refuse matters. No tenement or lodg- house or premises, nor any portion thereof, ll be used as a place of storage for any nbustible article, or any article dangerous life or detrimental to health; nor shall any se, cow, calf, swine, pig, sheep, or goat kept in said house or on the premises reof. No bakery or place of business in ich fat is boiled shall be maintained in any ement house which is not fireproof, where the ceiling and side walls of ce where said fat boiling is done not made safe by fireproof material ound the same, except by permit of and un- such conditions as may be prescribed by fire department; no part of any tenement se shall be used for the storage of feed, hay straw, except by permit of and under such nditions as may be prescribed by the fire partment.

nements, etc., to be cleansed; owners' names to be registered in department of health.

Sec. 1,313. Every owner of a tenement or lging house, and every person having con- l of a tenement or lodging house, shall file the department of health, a notice contain- g his name and address, and also a descrip- n of the property, by street number or herwise, as the case may be, in such manner will enable the department of health easily find the same; and also the number of artments in each house, the number of rooms each apartment, the number of families cupying the apartments, and the trades or cupations carried on therein. In case of a nsfer of any tenement house, or lodging use, it shall be the duty of the grantor and antee of said tenement or lodging house to e in the department of health a notice of ch transfer, stating the name of the new ner, within thirty days after such transfer. case of the devolution of said property by ll, it shall be the duty of the executor d of the devisee, if more than twenty-one ars of age, and in case of the devo- tion of such property by inheritance with- t a will, it shall be the duty of the heirs, or case all of the heirs are under age, it shall the duty of the guardians of such heirs, d in case said heirs have no guardians, it all be the duty of the administrator of the ceased owner of said property to file in id department, a notice, stating the death of e deceased owner, and the names of those ho have succeeded to his interest in said operty, within thirty days after the death said decedent, in case he died intestate, id within thirty days after the probate of his will, if he died testate. A failure to file such notice shall make said property, and the owners thereof, liable to a penalty of not less than ten dollars nor more than fifty dollars. Said penalty may be recovered in an action brought by the health department as provided in this act. Every person claiming to have an interest in any tenement or lodging house may file his name and address in the department of health. All notices and orders of the department of health required by law to be served in relation to a tenement or lodging house, shall be served by posting in some conspicuous place in the house, a copy of the notice or order, five days before the time for doing the thing, in relation to which said notice or order was issued. The posting of a copy of an order or notice, in accordance with this section, shall be sufficient service upon the owner of the property affected. It shall be the duty of the department of health to cause a copy of every such notice or order to be mailed, on the same day that it is posted in the house, addressed to the name and address of each person who has filed with the department of health the notice provided for in this section.

Inspection twice a year. Officers to have access.

Sec. 1,314. It shall be the duty of the board of health to cause a careful inspection to be made of every tenement and lodging house at least twice in each year. And whenever the board of health has made any order concerning a tenement or lodging house, it shall cause a reinspection to be made of the same within six days after it has been informed that the order has been served. The keeper of any lodging house, and the owner, agent of the owner, lessee or occupant of any tenement house, and every other person having the care and management thereof, shall, at all times, when required by any officer of the department of health, or by any officer upon whom any duty is conferred by this title, give him free access to such house, and to every part thereof. The owner or keeper of any lodging house, and the owner, agent of the owner, and the lessee of any tenement house or part thereof, shall, whenever any person in such house is sick of fever, or of any infectious, pestilential or contagious disease, and information thereof has been given to such owner, keeper, agent or lessee, give immediate notice thereof to the board of health, or to some officer of the same, and thereupon said board shall cause the same to be immediately cleansed or disinfected, at the expense of the owner, in such manner as it may deem necessary and effectual, and it may also cause the blankets, bedding and bed clothes used by any such sick person to be thoroughly cleansed, scoured and fumigated, or, in extreme cases, to be destroyed.

Infected and uninhabitable houses to be condemned by board of health.

Sec. 1,315. Whenever it shall be certified to the board of health of the city of New York by the sanitary superintendent, or an assistant sanitary superintendent, that any building or any part thereof in the city of New York is infected with contagious disease, or by reason of want of repair has become dangerous to life, or is unfit for human habitation because of defects in drainage, plumbing, ventilation, or the construction of the same, or because of the existence of a nuisance on the premises, which is likely to cause sickness among its occupants, the said board of health may issue an order requiring all persons therein to vacate such building or part thereof for the reasons to be stated therein as aforesaid. Said board shall cause said order to be affixed conspicuously in the building or part thereof and to be personally served on the owner, lessee, agent, occupant, or any person having the charge or care thereof; if the owner, lessee or agent cannot be found in the city of New York or do not reside therein, or evades or resists service, then said order may be served by depositing a copy thereof in the post office in the city of New York, properly inclosed and addressed to such owner, lessee or agent at his last known place of business and residence, and prepaying the postage thereon; such building or part thereof shall, within ten days after said order shall have been posted and mailed as aforesaid, or within such shorter time, not less than twenty-four hours, as in said order may be specified, be vacated, but said board of health whenever it shall become satisfied that the danger from said building or part thereof has ceased to exist or that said building has been repaired so as to be habitable, may revoke said order.

Proceedings for condemnation prescribed.

Sec. 1,316. Whenever, in the opinion of the board of health of the city of New York, any building or part thereof in the city of New York, an order to vacate which has been made by said department, is, by reason of age, defects in drainage, plumbing, infection with contagious disease, or ventilation, or because of the existence of a nuisance on the premises, which is likely to cause sickness among its occupants, or among the occupants of other property in the city of New York, or because it stops ventilation in other buildings, or otherwise makes or conduces to make other buildings adjacent to the same unfit for human habitation, or dangerous or injurious to health, or because it prevents proper measures from being carried into effect for remedying any nuisance injurious to health, or because of other sanitary evils in respect of such other buildings, so unfit for human habitation that the evils in, or caused by said building, cannot be remedied by repairs, or in any other way except by the destruction of said building, or of a portion of the same, said board of health may if it deem such course just and proper, condemn the same and order it removed; provided, however, that the owner or owners of said building may demand a survey of said building in the manner provided for in case of unsafe buildings, and may institute proceedings in the supreme court in the city of New York for the condemnation of said building. Said proceeding shall be instituted through a petition addressed to said court containing a brief statement of the reasons therefor, and shall not be required to contain further allegations of facts than those which have actuated the board of health in this proceeding, which shall then be carried on in the manner prescribed by chapter 21 of this act. The owner of said building, or any person interested therein may, in his answer, dispute the necessity of the destruction of said building, or part thereof, as the case may be. In such case, the court shall not appoint commissioners unless proof is made of the necessity of said destruction. In such proceeding evidence shall be receivable by the commissioners to prove:

1. That the rental of the building was enhanced by reason of the same being used for illegal purposes, or being so overcrowded as to be dangerous or injurious to the health of the inmates; or

2. That the building is in a state of defective sanitation, or is not in reasonably good repair; or

3. That the building is unfit and not reasonably capable of being made fit for human

habitation; and, if the commissioners are satisfied by such evidence, then the compensation—

(a). Shall in the first case, so far as is based on rental, be on the rental of the building, as distinct from the ground rent, which would have been obtainable if the building was occupied for legal purposes, and only by the number of persons whom the building was under all the circumstances of the case fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates; and

(b). Shall in the second case be the amount estimated as the value of the building if it had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of putting it into such condition or repair; and

(c). Shall in the third case be the value of the materials of the building.

For the payment of all awards and the expenses of all such proceedings, the controller shall issue and sell from time to time as may be necessary, and in the manner hereinbefore provided, corporate stock of the city of New York.

Houses hereafter erected to comply with additional requirements.

Sec. 1,317. No house hereafter erected shall be used as a tenement house or lodging house, and no house heretofore erected and not now used for such purpose, shall be converted into, used or leased for a tenement or lodging house, unless, in addition to the requirements hereinbefore contained, it conforms to requirements contained in the following sections of this title.

Construction of tenement houses and space prescribed for building the same.

Sec. 1,318. It shall not be lawful, without a permit from the department of buildings, to alter, erect or convert to the purposes of a tenement or lodging house, a building on any lot where there is another building on the same lot; nor shall it be lawful to build or to erect any building on any lot whereon there is already a tenement or lodging house, unless there is a clear open space exclusively belonging thereto, and extending upward from the ground of at least ten feet between said buildings if they are one story high above the level of the ground; if they are two stories high the distance between them shall not be less than fifteen feet; if they are three stories high the distance then shall not be less than twenty feet; if they are more than three stories high the distance between them shall not be less than twenty-five feet, but when thorough ventilation of such open spaces can be otherwise secured, such distances may be lessened or modified in special cases by a permit from the department of buildings. At the rear of every building hereafter erected for or converted to the purposes of a tenement or lodging house on any lot, there shall be and remain a clear open space of not less than ten feet between it and the rear end of the lot. No one continuous building hereafter constructed shall be built or converted to the purposes of a tenement or lodging house in the city of New York, upon an ordinary city lot, and no existing tenement or lodging house shall be enlarged or altered, or its lot be diminished, so that it shall occupy more than 65 per centum of the area of said lot, but where the light and ventilation of such tenement or lodging house, are, in the opinion of the superintendent of buildings, materially improved, he may permit such tenement or lodging house to occupy an area not exceeding seventy-five per centum of the said lot, and in the same proportion if the lot be greater or less in size than twenty-five by one hundred feet; but this provision shall not apply to corner lots, in which, however, no such building hereafter constructed, above the first story, shall occupy more than ninety-two per centum of the area of a lot, and no such building shall come within five feet of the rear of said lot, provided, further, that in all cases, both for corner and interior lots, the interior courts or shafts shall not be less than two feet four inches wide at their narrowest parts. In computing the amount of the lot covered by a building, any shaft or court of less than twenty-five square feet in area shall be considered as part of the building and not as part of the free air space. No shaft or court, over ten square feet in area, hereafter constructed in a tenement house or lodging house, except elevator shafts or staircase wells, shall be covered with a roof, skylight or otherwise. In all tenement houses hereafter constructed or buildings hereafter converted to the purposes of a tenement house, the stairway communicating between said cellar or basement and the floor next above, when placed within any such building, shall be inclosed with brick walls, and such stairway shall be provided with fire proof doors at the top and bottom of said flight of stairs. An open area, shall be constructed from the level of the cellar to the sidewalk in front and extending the full width of such houses, with a staircase to give access to the cellar from the street. Where stores are located on the first floor the area may be covered with suitable vault lights or gratings. In all tenement houses hereafter constructed, or buildings hereafter converted to the purposes of a tenement house, the openings to the elevators or lifts in the cellar, and at every opening, on every story, shall be provided with self closing fireproof doors. This provision, however, shall not apply to such elevators in tenement houses as are operated by a conductor stationed within the car; but if such elevators run to the cellar, they must be inclosed in the cellar with fireproof walls, and the door to the cellar, if any, must be fireproof and self closing. In all tenement houses hereafter constructed, or buildings hereafter converted to the purposes of a tenement house, all staircases shall be fireproof; but this provision as to staircases shall not apply to buildings which are not over five stories high above the cellar, and which contain not more than three suites of rooms on a floor. Every tenement house hereafter constructed, or buildings hereafter converted to the purpose of a tenement house, exceeding three stories in height, or having a basement with three stories above the cellar, shall have the entrance hall and entire stairwell and stairs, built of slow burning construction or fireproof material; no wainscoting shall be allowed in the main halls except of cement, or other fireproof material; at least one flight of such stairs shall extend to the roof, and be inclosed in a bulkhead building of fireproof material. In all tenement houses hereafter constructed, and buildings hereafter converted to the purposes of a tenement house, each room must have a separate window opening into the outer air; each water closet must have a window opening into the outer air, and such water closet inclosure if provided with a ventilating flue or duct, may have the window opening on any court or shaft containing at least twenty-five square feet in area; the floor of each water closet must be made waterproof with asphalt, cement, tile, metal or some other waterproof material; and such waterproofing must extend at least sixteen inches above the floor except at the door opening so that said floo can be washed or flushed out without leal ing. The light and ventilation of all buil ings hereafter erected for, or converted t the purpose of tenement or lodging house must be provided in accordance with the re quirements of this title, and the condition of a plan and permit previously approved i writing by the department of buildings, an no existing tenement or lodging house sha be enlarged or altered or its lot diminshe without a similar permit. The department o buildings is hereby empowered, and directe to make rules and regulations not inconsis ent with the requirements of this title, an which in addition to the requirement of this title, shall be the con ditions of approval of the plans an permits; these rules and regulations shall gov ern the arrangement and distribution of th uncovered area, size, lighting, location an arrangement of shafts, rooms, cellars an halls. No building or premises occupied fo a tenement house shall be used for a lodgin house, private school, stable or for the storag and handling of rags, but the department o health may, by a special permit, fixing th conditions thereof in writing, and providin there be the necessary cubic air space an ventilation, allow the maintenance of a pri vate school in such a house. In case of an violation of the provisions of this section, o of any failure to comply with, or of any vio lation of the terms and conditions of th plan for such tenement or lodging house ap proved by the department of buildings or o the conditions of the permits granted as here inbefore provided, or for the air, light an ventilation of the said house or premises, an court of record, or any judge or justice there of shall have power, at any time after servic of notice of violation, or of non compliance upon the owner, builder or other person sup erintending the building or converting an such house, upon proof by affidavit of an violation or non compliance as aforesaid, o that a plan for light and ventilation of such house has not been approved by the depart ment of buildings, to restrain by injunctio order, in any action by the department o buildings or by the board of health, the fur ther progress of any violation as aforesaid No undertaking shall be required as a condi tion of granting an injunction or by reaso thereof.

Dimensions and ventilation of rooms.

Sec. 1,319. In every such house hereafte erected or converted every habitable room, ex cept rooms in the attic, shall be in every part not less than eight feet in height from the floor to the ceiling; and every habitable room in the attic of any such building shall be at least eight feet in height from the floor to the ceiling, throughout not less than one-half the area of such room. Every such room shall have at least one window connecting with the external air, or over the door a ventilator of perfect construction, connecting it with a room or hall which has a connection with the external air and so arranged as to produce a cross current of air. The total area of window or windows in every room communicating with the external air shall be at least one-tenth of the superficial area of every such room; and the top of one, at least, of such windows shall not be less than seven feet six inches above the floor, and the upper half, at least, shall be made so as to open the full width. Every habitable room of a less area than one hundred superficial feet, if it does not communicate directly with the external air, and is without an open fire place shall be provided with special means of ventilation, by a separate air shaft extending to

the roof, or otherwise, as the board of health may prescribe.

Chimneys, ash receptacles, water, cellar floor, ceilings and gas in tenement houses.

Sec. 1,320. Every such house erected after May fourteenth, eighteen hundred and sixty-seven, or converted, shall have adequate chimney for a stove, properly connected with one of said chimneys for every family set of apartments. It shall have proper conveniences and receptacles for ashes and rubbish. It shall have water furnished in sufficient quantity at one or more places on each floor, occupied or intended to be occupied by one or more families; and all tenement houses shall be provided with a like supply of water by the owners thereof, whenever they shall be directed so to do by the board of health. But a failure in the general supply of water by the city authorities, shall not be construed to be a failure on the part of such owner, provided that proper and suitable appliances to receive and distribute such water are placed in said house. The board of health shall require all tenement houses to be so supplied. Every tenement house shall have the floor of the cellar made water tight; and the ceiling plastered, and when the house is located over filled in ground, or over marshy ground, or ground on which water lies, the cellar floor shall be covered so as to effectually prevent evaporation or dampness. It shall be the duty of the department of health to see that the cellars of all tenement houses are so made or altered as to comply with this section. Every such house erected after May seventh, eighteen hundred and eighty-seven, or converted, shall have the halls on each floor open directly to the external air, with suitable windows, and shall have no room or other obstruction at the end, unless sufficient light or ventilation is otherwise provided for in said halls, in a manner approved by the department of buildings. The owner or lessee of every tenemnt or lodging house in the city of New York shall keep a light burning in the hallway upon each floor of said house from sunset until 10 P. M. throughout the year. In every tenement house in the said city in which there is a hallway or hallways with no window opening from such hallway outside of said house, a light shall be maintained by said owner or lessee in each such hallway, between the hours of 8 A. M. and 10 P. M. of each day, unless said hallway shall be otherwise sufficiently lighted. The fire department of the city of New York is hereby vested with authority to prescribe reasonable regulations concerning such precautions as may be necessary to prevent danger from fire arising from such lights.

Overcrowding of tenement houses prohibited; housekeeper in same required.

Sec. 1,321. Whenever it shall be certified to the department of health by the sanitary superintendent or an assistant sanitary superintendent that any tenement house or room therein, being without sufficient ventilation, is so overcrowded that there shall be afforded less than four hundred cubic feet of air to each adult, and two hundred cubic feet of air to each child under twelve years of age occupying such building or room, the said department shall issue an order requiring the number of occupants of such building, or room, to be reduced in accordance with this provision. Whenever there shall be more than eight families living in any tenement house, in which the owner thereof does not reside, there shall be a janitor, housekeeper or some other responsible person, who shall reside in the said house, and have charge of the same, if the department of health shall so require. Permits may be granted by the board of health to the owners of lodging houses on compliance with the rules and regulations of the sanitary code in the city of New York, and the conditions of each permit which shall be in writing.

Penalties for violations of provisions concerning tenement houses.

Sec. 1,322. Every owner or other person violating any provision of this title shall be guilty of a misdemeanor, punishable by a fine of not less than $10 or more than $100, or by imprisonment for not more than ten days for each and every day that such violation shall continue, or by both such fine and imprisonment, in the discretion of the court. He shall also be liable to pay a penalty of $10 for each day that such offense shall continue. Such penalty may be sued for and recovered by the department of health in any civil tribunal of said city, and when recovered shall be paid over to the chamberlain. In every proceeding for a violation of this title, and in every such action for a penalty, it shall be the duty of the owner of the house to prove the date of its erection, or conversion to its existing use, if that fact shall become material, and the owner shall be, prima facie, the person liable to pay such penalty, and after him the person who is the lessee of the whole house, in preference to the tenant or lessee of a part thereof. In any such action the owner, lessee and occupant, or any two of them, may be made defendants, and judgment may be given against the one or more shown to be liable, as if he or they were sole defendant or defendants. No part of chapter 275 of the laws of 1892, or of any other act shall be so construed as to abrogate or impair the power of the department of health to sue for and recover such a penalty whether the liability to pay said penalty shall arise from a violation of the laws, or ordinances or sections of the sanitary code, in regard to light, ventilation, plumbing and drainage, so far as the same affects the sanitary condition of the premises; and except that the department of buildings of the city of New York shall have jurisdiction and cognizance over all matters and things in this title contained which relate to the construction or alteration of buildings or structures, or any part thereof, and as to the light, ventilation, drainage and plumbing of such buildings when in process of construction or alteration. Any penalty herein above mentioned for a violation of the provisions of this title, in respect to the matters aforesaid, within the jurisdiction and cognizance of the department of buildings, shall be sued for and recovered in the same manner as the violations of the building laws of the city of New York are now sued for and recovered by the department of buildings in the city of New York, and said penalty, so collected, shall be paid to the chamberlain of the city of New York to be applied as other penalties collected by said departments are applied.

Power of department of buildings and of board of health to make other regulations relative to tenement or lodging houses.

Sec. 1,323. The department of buildings shall have authority to make other regulations as to light and ventilation of all new tenement or lodging houses consistent with the foregoing, when it shall be satisfied that such regulations will secure equally well the health and safety of the occupants; likewise the board of health shall have authority to make other regulations as to cellars and as to ventilation in completed buildings, consistent with the foregoing, where it shall be satisfied that such regulations will secure equally well the health of the occupants. The board of health shall have power to appoint all the officers and agents of the department of health, of what ever name or character soever, and shall have exclusive charge and control of, and the exercise of, all the rights, powers, duties and privileges of said department, and for this purpose the terms "board of health" and "department of health," as used in this chapter, shall be deemed synonymous.

Sanitary company of police.

Sec. 1,324. The board of health shall make requisition upon the police board for the detail of at least fifty and not more than one hundred suitable officers and men of at least five years' service in the police force, who shall be selected for their peculiar fitness, for the enforcement of the provisions of the sanitary code and the acts relating to tenement and lodging houses. These officers and men shall be detailed to such service by the police board, and the department of health shall pay to the police department monthly, the amount of the pay of the officers and men so detailed, who shall belong to the sanitary company of the police and shall report to the board of health. At least thirty of the officers and men so detailed shall be employed exclusively in the enforcement of the laws relating to tenement and lodging houses. The board of health may report back to the police board for punishment, any member of said company guilty of any breach of orders or discipline, or of neglecting his duty, and thereupon the police board shall detail another officer or man in his place, and the discipline of the said members of the sanitary company shall be in the jurisdiction of the police department; but at any time the board of health may object to the efficiency of any member of said sanitary company and thereupon another officer or man shall be detailed in his place.

This chapter a remedial statute.

Sec. 1,325. This chapter is hereby declared to be a remedial statute and is to be construed liberally to secure the beneficial interests and purposes thereof. Nothing herein contained shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred, or any cause or causes of action accrued or existing, whether for a penalty or otherwise, under any act repealed or amended by this act. All acts and parts of acts in conflict with this chapter or any part thereof are hereby repealed.

TITLE 8.

THE HEALTH DEPARTMENT PENSION FUND.

Board of trustees of health department pension fund.

Sec. 1,331. The board of health of the health department of the city of New York is hereby constituted and shall be a board of trustees of the health department pension fund heretofore and herein authorized and provided for. The members of said board of health shall annually choose one of their number to be chairman of the board of trustees of the health department pension fund, and shall from time to time elect a secretary. Immediately upon organization said board of trustees shall receive and have charge of the pension fund, or funds heretofore authorized, and in existence in any health department, municipality or county forming a part of the city of New York, provided for officers, physicians and employes in the health department service, and such board of trustees shall have charge of and administer

the pension fund authorized and provided for herein. From time to time the said board of trustees shall invest the said pension fund or any part thereof, as it shall deem most beneficial to the fund. Said board is empowered to make all necessary contracts and take all necessary and proper actions and proceedings in the premises, and to make payment from said fund of pensions granted in pursuance of this act. The said trustees shall from time to time establish such rules and regulations for the administration of the said fund as they may deem best. They shall report in detail to the mayor of the city of New York annually in the month of January the condition of said fund and the items of their receipts and disbursements on account of the same. No payments whatever shall be allowed to or made by such trustees as reward, gratuity or compensation to any person for salary or services rendered to or for said board of trustees.

What moneys shall be included in pension fund.

Sec. 1,332. The health department pension fund shall consist of

1. All moneys paid for searches and transcripts of the records of births, marriages and deaths or other papers of said department of health.

2. All moneys collected from fines and penalties for violations of the sanitary code or health laws in the city of New York.

3. All said moneys, including the fines and penalties directed in section 1,222 of this act, to be paid to the controller shall within thirty days after collection or payment be paid over by the department, officers, clerks, magistrates and courts, receiving and collecting the same, to the said board of trustees of the health department pension fund.

Pension for physician or employe disabled by reason of performance of duty.

Sec. 1,333. The board of trustees of said fund shall have power to grant as pension to any physician employed in the health department of the city of New York, or to any employe of the disinfecting corps of said department, or to any employe of the hospitals for the treatment of contagious and infectious diseases under the charge of said health department or of the board of health, who shall, while in the actual performance of his duty, and without any fault or misconduct on his part have become permanently disabled physically or mentally, so as to be unfit to perform full duty, a sum not to exeed one-half, nor less than one-fourth of his rate of compensation per annum as such physician or employe, as the case may be.

Pensions to personal representatives of physician or employe who shall die from disease or injuries suffered in consequence of his performance of duty.

Sec. 1,334. Whenever such physician or employe shall die while in the service of the health department from disease contracted or injuries sustained by him while in the actual performance of his duty, without any fault or misconduct on his part, leaving a widow, the said board of trustees of said pension fund may grant, award or pay to the widow of said physician or employe, the sum of three hundred dollars, annually, during her life or so long as she remains a widow; and if there be no widow of any such physician or employe, but he shall leave minor children under eighteen surviving him, then said three hundred dollars may be given, awarded and paid to said children under eighteen years of age.

Certificate required in certain cases.

Sec. 1,335. No physician or employe, as aforesaid, of the health department, shall be awarded, granted, or paid a pension on account of physical or mental disability or disease, unless upon certificate and report of a board of physicians, to be appointed by the board of health, which shall set forth the cause, nature, and extent of the disability, disease, or injury of such physician or employe who may be placed on the pension roll, and such certificate shall distinctly state whether or not such disability, disease, or injury was incurred or sustained by such physician or employe while in the performance of his duties as such physician or employe, of the health department, and such certificate shall in such case be filed with, and entered upon the minutes of the board of health.

Pension for twenty years' service.

Sec. 1,336. Any such physician or employe who has or shall have performed duty as such physicain or employe in the medical service, or as a clerk, in any department of health in the city of New York, for a period of twenty years, or upward, upon his own application, in writing, or upon a certificate and report of a board of physicians, appointed by the board of health, certifying that such physician or employe is permanently disabled, so as to be unfit for further duty as such physician or employe, shall be retired from active service by resolution of the board of health of the health department of the city of New York, and placed upon the health department service, of the rank of the physician or employe so retired, paid from said health department pension fund by the trustees thereof, an annual sum during his lifetime, not exceeding one-half the ordinary full pay of a physician or employe in the health department service, of the rank of the physician or employe so retired, provided, however, that no pension granted under this or the preceding sections, shall exceed the sum of twelve hundred dollars per annum. Pensions granted under this section shall be for the natural life of the person receiving the same, and shall not be revoked, repealed or diminished. In determining the term of service of any such physician or employe, under this section, service in former health departments or boards of health having jurisdiction in matters of public health in any part of the city of New York, shall be counted and held to be service in the department of health of the city of New York.

Order of discontinuance of pension in certain cases.

Sec. 1,337. The board of health may, in its discretion, order any pension granted or any part thereof to cease, except as provided in the last preceding section, but in all such cases the said board of health shall file with the board of trustees of the health department pension fund a written statement of the causes determining the action of the said board of health in ordering any pension to so cease, and nothing in this act or in any other act shall render the granting or payment of such pension obligatory on the board of health, or upon the trustees of the health department pension fund, or chargeable as a matter of right upon said fund, except as provided in the last preceding section.

Repeal of acts inconsistent with this title.

Sec. 1,339. All acts and parts of acts inconsistent with this title are hereby repealed.

CHAPTER XX.

INFERIOR LOCAL COURTS.

Title 1. The city court of New York.

Title 2. The municipal court of the city of New York.

Title 3. Inferior courts of criminal jurisdiction.

Title 4. The marshals.

TITLE 1.

THE CITY COURT OF NEW YORK.

Sec. 1,345. The city court shall be continued, and said court and the justices thereof shall have the same powers and jurisdiction as are now conferred upon them by law, provided, however, that in sections 338, 3,165, 3,169, 3,170 and 3,268 of the code of civil procedure the word "city" shall be construed to mean and apply to the territory within the city of New York as it existed and was constituted prior to the sixth day of June, 1895.

Sec. 1,346. The justices of said city court in office when this act shall take effect shall continue to hold office until the expiration of their respective terms; but the successors of said justices shall be elected for and hold office for the period of ten years.

TITLE 2.

THE MUNICIPAL COURT OF THE CITY OF NEW YORK.

Courts, etc., abolished.

Sec. 1,350. From and after midnight of the thirty-first day of January, 1898, the justices' courts and the office of justice of the peace in the cities of Brooklyn and Long Island City are abolished, and all jurisdiction, power, authority and duty theretofore vested in said courts and justices of the peace, and in the clerks, officers, interpreters, stenographers and employes of said courts and justices shall cease and determine, except as provided in the next section and section 1,372 of this act; and from and after the passage of this act no person shall be elected to the office of district court justice or justice of the peace in any portion of the territory included within the city of New York as constituted by this act.

Municipal court created.

Sec. 1,351. On and after the first day of January, 1898, the district courts of the city of New York and the justices' courts of the First, Second and Third districts of the City of Brooklyn are hereby continued, consolidated and reorganized under the name of "The Municipal Court of the City of New York," which said court shall be a local civil court within the city of New York as constituted by this act, and shall not be a court of record or have any equity jurisdiction; but shall have the jurisdiction, powers, duties and organization hereinafter prescribed.

Justices.

Sec. 1,352. The said court shall be held by justices to be elected or appointed as follows:

1. The justices of said district courts of the city of New York and said justices of the peace in the First, Second and Third districts of the City of Brooklyn in office on the first day of January, 1898, shall continue for the remainder of the terms for which they were elected or appointed, and shall be called justices of the municipal court of the city of New York, and shall have all the powers and jurisdiction and be subject to all the duties and requirements hereinafter prescribed for justices of said muncipal courts.

Election of successors.

2. The successors of the justices mentioned in the first subdivision of this section shall be elected by the electors of the districts for which said justices were elected or appointed respectively, as described and renumbered in sections 1,359, 1,360 and 1,361 of this act, at the general election to be held in the year

at the end of which the terms of said justices shall expire.

Id. When terms expire in 1897.

3. There shall be elected at the general election to be held on the first Tuesday succeeding the first Monday of November, in the year one thousand eight hundred and ninety-seven, as many justices of said municipal court as there shall be justices of the said district courts in the city of New York or justices of the peace of the said First, Second and Third districts in the City of Brooklyn, whose terms expire at the end of the year 1897. Such justices shall be elected by the electors of the districts for which such justices whose terms expire in 1897 were elected or appointed, as described and renumbered in sections 1,359, 1,360 and 1,361 of this act.

Additional justices.

4. On or before the twentieth day of January, one thousand eight hundred and ninety-eight, the mayor of the city of New York shall appoint seven additional justices of said municipal court two of whom shall be residents of the Fourth and Fifth districts of the borough of Brooklyn, three of whom shall be residents of the First, Second and Third districts of the borough of Queens, and two of whom shall be residents of the First and Second districts of the borough of Richmond, respectively. The justices so appointed shall hold office till the 31st day of December, 1899, and their successors shall be elected at the general election to be held in the year 1899, and shall be residents of the same districts as the justices appointed pursuant to this subdivision.

Qualifications, etc., of justices.

Sec. 1,353. No one shall hereafter be eligible to the office of justice of the said municipal court unless he be a resident and elector in the district for which he shall be elected or appointed and has been an attorney and counselor at law of the state of New York for at least five years. None of said justices shall engage in any other business or profession or hold any other public office or act as referee, but each of such justices shall devote his whole time and capacity, so far as the public interest demands, to the duties of his office; provided, however, that this restriction shall not apply to the justices of said court mentioned in subdivision 1 of section 1,352 of this act.

Oath.

Sec. 1,354. The justices elected or appointed pursuant to this act shall, before entering upon their duties, take the oath of office prescribed by the constitution, and file the same with the city clerk.

Salary.

Sec. 1,355. The salary of each of said justices, except those appointed or elected from the boroughs of Queens and Richmond, shall be six thousand dollars a year, to be paid in equal monthly installments by the proper officers of said city, and the salary of each of said justices appointed or elected for the boroughs of Queens and Richmond shall be five thousand dollars a year, to be paid in the same manner.

Terms.

Sec 1,356. The terms of said justices to be elected pursuant to this title shall be ten years.

Vacancies.

Sec. 1,357. Vacancies occurring in the office of justice of said court shall be filled at the next ensuing general election for the unexpired term commencing on the first day of January next after said election, and the mayor of the city shall appoint some proper person to fill such vacancy in the interim within twenty days after the same occurs.

Districts.

Sec. 1,358. The several boroughs composing the city of New York are hereby divided into districts, in each of which sessions of said municipal court shall be held, as specified in the next five sections.

Borough of the Bronx.

Sec. 1,359. In the borough of the Bronx there shall be two districts, as follows:

1. The first district embracing the territory described in chapter 934 of the laws of 1895.

2. The second district embracing the remainder of said borough.

Borough of Manhattan.

Sec. 1,360. In the borough of Manhattan there shall be eleven districts, as follows:

1. The First district embraces the Third, Fifth and Eighth wards of said borough of Manhattan, and all that part of the First ward lying west of Broadway and Whitehall street, including Nuttin or Governor's Island, Bedloe's Island, Bucking or Ellis Island and the Oyster islands.

2. the Second embraces the Second, Fourth, Sixth and Fourteenth wards, and all that portion of the First ward lying south and east of Broadway and Whitehall street.

3. The Third district embraces the Ninth and Fifteenth wards.

4. The Fourth district embraces the Tenth and Seventeenth wards.

5. The Fifth district embraces the Seventh, Eleventh and Thirteenth wards.

6. The Sixth district embraces the Eighteenth and Twenty-first wards.

7. The Seventh district embraces the Nineteenth ward.

8. The Eighth district embraces the Sixteenth and Twentieth wards.

9. The Ninth district embraces the Twelfth ward, except that portion thereof which lies west of the center line of Lenox or Sixth avenue and of the Harlem river north of the terminus of Lenox avenue.

10. The Tenth district embraces the Twenty-second ward and all that portion of the Twelfth ward which is bounded on the north by the center line of One Hundred and Tenth street, on the south by the center line of Eighty-sixth street, on the east by the center line of Sixth avenue and on the west by the North river.

11. The Eleventh district embraces that portion of the Twelfth ward which lies north of the center line of West One Hundred and Tenth street and west of the center line of Lenox or Sixth avenue and of the Harlem river north of the terminus of Lenox or Sixth avenue.

Borough of Brooklyn.

Sec. 1,361. In the borough of Brooklyn there shall be five districts as follows:

1. The First district embraces the First, Second, Third, Fourth, Fifth, Sixth, Tenth and Twelfth wards.

2. The Second district embraces the Seventh, Eighth, Ninth, Eleventh, Twentieth, Twenty-first, Twenty-second and Twenty-third wards.

3. The Third district embraces the Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth and Nineteenth wards.

4. The Fourth district embraces the Twenty-fourth, Twenty-fifth, Twenty-sixth, Twenty-seventh and Twenty-eighth wards.

5. The Fifth district embraces the Twenty-ninth, Thirtieth, Thirty-first and Thirty-second wards.

Borough of Queens.

Sec. 1,362. In the borough of Queens there shall be three districts, as follows:

1. The First district embraces Ward One of said borough.

2. The Second district embraces Wards Two and Three of said borough.

3. The Third district embraces Wards Four and Five of said borough.

Borough of Richmond.

Sec. 1,363. In the borough of Richmond there shall be two districts, as follows:

1. The First district embraces Wards One and Three of said borough.

2. The Second district embraces Wards Two, Four and Five of said borough.

Jurisdiction.

Sec. 1,364. Except as provided in the next section the said municipal court has jurisdiction in the following civil actions and proceedings, including an action against a domestic corporation or a foreign corporation having an office in the city of New York:

1. An action to recover damages upon or for breach of contract, express or implied, other than a promise to marry, where the sum claimed does not exceed five hundred dollars.

2. An action to recover damages for a personal injury or an injury to property, excepting, however, actions to recover damages for an assault, battery, malicious prosecution, false imprisonment, libel, slander, criminal conversation, seduction, or loss of society of a husband or wife, where the sum claimed does not exceed five hundred dollars.

3. An action for a fine or penalty not exceeding five hundred dollars, including an action to recover a penalty given by the charter of the city of New York or any bylaw or ordinance thereof or by any statute of the state.

4. An action upon a bond conditioned for the payment of money where the sum claimed to be due does not exceed five hundred dollars, the judgment to be rendered for the sum actually due. Where the sum secured by the bond is to be paid in installments an action may be brought for each installment as it becomes due.

5. An action upon a surety bond or undertaking taken in said court or in any district court of the city of New York or by any justice of the peace.

6. An action upon a judgment rendered in said court or in a district court of the city of New York or in a justice's court, or in the municipal court of the city of Rochester, or in the municipal court of the city of Syracuse, or in the municipal court of the city of Buffalo.

7. An action to recover one or more chattels with or without damages for the taking, withholding or detention thereof where the value of the chattel or of all the chattels as stated in the affidavit made on the part of the plaintiff does not exceed $500, subject to the qualifications specified in sections 1,689, 1,690, 1,691 and 1,692 of the code of civil procedure.

8. An action in behalf of the people of the state brought by the direction of a commissioner of public charities or of an overseer of the poor upon a bastardy or abandonment bond in a case where it is prescribed by law that such an action can be maintained in said municipal court of the city of New York or in any court not being a court of record.

9. An action to recover damages for an escape from the jail liberties as provided by

chapter 2, title 2, articles IV and V, of the code of civil procedure, where the sum claimed does not exceed $100.

10. An action upon the bond of a marshal of the city of New York in a case where it is prescribed by a special statutory provision that such an action can be maintained in a district court or in said municipal court.

11. An action for damages for fraud or deceit in the sale, purchase or exchange of personal property where the damages claimed do not exceed $500.

12. A summary proceeding under title two of chapter seventeen of the code of civil procedure to recover possession of real property which, or a portion of which, is situated within the district wherein the application for such recovery is made.

13. To render judgment upon the confession of the defendant or defendants as prescribed in title six of chapter nineteen of the code of civil procedure where the sum confessed does not exceed five hundred dollars.

14. Other civil actions or proceedings of which district courts in the city of New York or justices of the peace shall have jurisdiction on the 31st day of December, 1897, except such as shall be expressly excluded by this act.

Id. Continued.

Sec. 1,365. The said municipal court cannot take cognizance of any civil action in either of the following cases:

1. Where the title to real property comes in question as prescribed in title third of chapter nineteen of the code of civil procedure, and sections 2,951 to 2,958 of said code, both inclusive, apply to an action brought in said court; and in an action brought in said court the surety upon the defendant's undertaking is liable in the case specified in section 2,952 of said code to any amount for which judgment might have been rendered by said court if the answer and undertaking had not been delivered. The provisions of section 1,349 of chapter 410 of the laws of 1882 shall govern in such cases.

2. Where the action is brought against an executor or administrator as such and the amount claimed is in excess of fifty dollars.

3. Where the action is against the city of New York as hereby constituted.

4. Where, in a matter of account, the sum total of the accounts of both parties, proved to the satisfaction of the court, exceeds one thousand dollars.

Removal.

Sec. 1,366. In an action specified in the last section but one, excepting subdivisions eight and ten, where the damages claimed or the value of the chattel or all the chattels claimed, as stated in the complaint, exceeds two hundred and fifty dollars, the defendant may, after issue is joined and before an adjournment has been granted upon his application, apply to the justice holding court in the district in which the action is brought for an order removing the action, and if it be in the Second district of the borough of the Bronx or in any district of the borough of Manhattan to the city court of the city of New York, if in any other district into the county court of the county wherein the district is situated, if the said county court has jurisdiction of such action, otherwise into the supreme court in such county. Such an order must be granted upon the defendant's filing with the clerk an undertaking in a sum fixed by the justice not exceeding twice the amount of the damages claimed or twice the value of the chattel or of all the chattels claimed, as stated in the complaint, with one or more sureties, to the effect that the defendant will pay to the plaintiff the amount of any judgment that may be recovered against him in the court to which such action shall be so removed. From the time of granting the order the city court or county court or supreme court, as the case may be, has cognizance of the action, and the clerk of the district must forthwith deliver to the clerk of such court to which the action shall be removed all process, pleadings and other papers in the action and certified copies of all minutes, entries and orders relating thereto, which must be filed, entered, or recorded as the case requires in the latter's office.

Appeals.

Sec. 1,367. 1. An appeal from a judgment rendered in the municipal court of the city of New York may be taken to the supreme court in the cases and in the manner prescribed in articles first and section of title eight of chapter nineteen of the code of civil procedure. Such appeal shall be heard in such manner and by such justice or justices as the appellate division of the supreme court in the judicial department embracing the district wherein the action is brought shall direct. The appellate court may reverse, affirm or modify the judgment appealed from, and where a judgment is reversed may order a new trial in the municipal court in the district in which the action was brought. Where a judgment is modified or a new trial is ordered costs shall be in the discretion of the appellate court.

2. In all cases of appeal from the decision of the said municipal court, where a transcript of the stenographer's minutes of testimony on the trial becomes a necessary part of the justice's return, the stenographer's fees for making such transcript shall be at the rate of five cents for every hundred words and be paid in the first instance by the appellant and afterward taxable by him as a disbursement on the appeal.

Process.

Sec. 1,368. The municipal court in any district shall have power to send its process and other mandates in an action or special proceeding of which it has jurisdiction into any district or part of the city of New York for service or execution and to enforce obedience thereto, and such process and mandates may be served in any district or part of the city of New York, as constituted by this act.

Procedure, etc.

Sec. 1,369. In so far as the same are consistent with this act, all provisions of law relating to the procedure and organization, the summons, precept, attachment, arrest, subpena or other process, service and execution of the same, time, appearances, parties, attorneys, practice, proceedings, pleadings, amendments, adjournments, defaults, judgments, transcripts, docketing, executions, offers, fees, costs, disbursements, joint debtors, depositions, taking testimony by commission and de bene esse, guardians ad litem, trials, jurors and drawing of jurors and all matters incidental to the same, the powers and duties of justices and clerks and other employes in district courts in the city of New York which shall be in force on the 31st day of December, 1897, shall apply to and control and govern the same in the said municipal court and the branches thereof in each district, except that a marshal of the city of New York cannot appear or act on behalf of either or any party in an action or proceeding in said municipal court. Sections 8 to 14, inclusive of the code of civil procedure, excepting subdivision 7 of said section 14, are hereby made applicable to and shall govern said municipal court. But in all cases where in any statute relating to said district courts the power and authority of said courts is limited to the city and county of New York, or to persons residing in or who are about to leave the city and county of New York, the power and authority of said municipal court is extended to the city of New York, as constituted by this act, and to all persons residing in or who are about to leave said city of New York, as so constituted, except as in this chapter otherwise expressly provided. In an action specified in section 1,364 of this act (except subdivisions 8 and 10), where the damages or the value of the chattels as claimed in the complaint, exceed $100, if, at the time of joining an issue of fact the defendant demand a trial by a jury of twelve men, the justice shall order such a jury to be summoned to try the same, and the proceedings and fees shall be the same as are prescribed in section 1,373 of chapter 410 of the laws of 1882.

Actions, in what district brought.

Sec. 1,370. An action or proceeding of which this court has jurisdiction must be brought:

1. In a district in which either the plaintiff or defendant or one of the plaintiffs or one of the defendants resides, unless all the plaintiffs or all the defendants reside out of the city of New York, in which case the action or proceeding may be brought in said court in any district.

2. If the defendant be a corporation created by law, in a district in which the plaintiff or either of the plaintiffs resides, or in which (if it be a corporation) it transacts its general business or keeps an office or has an agency established for the transaction of business or is established by law, except the corporation of the city of New York, which may sue in any district, except as in the next section provided.

3. By plaintiffs not residing in the city of New York, in the district in which the defendant or one of the defendants resides, and against a defendant or defendants not residing in said city, in the district in which the plaintiff or one of the plaintiffs resides; but where all of the parties reside out of said city the action may be brought in any district. No person who shall have a place in said city for the regular transaction of business shall be deemed a non-resident under the provisions of this title.

4. If the district in which the action or proceeding is brought is not the proper district, the action may, notwithstanding, be tried therein, unless the action is transferred to the proper district before trial upon the demand of the defendant made upon or before the joinder of issue in writing or in open court, followed by the consent of the plaintiff, given in like manner, or the order of the court. The demand must specify the district to which the defendant requires the action to be transferred. The court must make such order when the district in which the action or proceeding is brought is not the proper district, as specified in this section or the next one if such demand be made.

Id. When brought by the corporation.

5. All actions by or on behalf of the city of New York to recover a penalty or fine for a violation of any corporation ordinance, when the amount of such penalty or fine shall not exceed five hundred dollars, must be brought in the district in which the violation of such ordinance happened or occurred, and the justice holding court in the same judicial district may direct any of the city marshals to collect the payment and make returns in the same manner as now provided by law. And all actions to recover a penalty or fine for a violation of any provision of the sanitary code adopted by the board of health or of any regulation of the fire commissioner or

laws which either said board or commissioner is authorized, empowered and especially charged to enforce, where the amount of such penalty or fine shall not exceed five hundred dollars, must be brought in the district in which such violation happened or occurred.

Where held.

Sec. 1,371. The said municipal court shall be held in each of the aforesaid districts by a justice of said court as hereinafter specified, at the places provided by the municipal assembly, and in accordance with law, at such hours in every judicial day or so often as the board of justices of the municipal court shall direct, and must continue in session so long as the public interest requires; and it shall be the duty of the municipal assembly within thirty days after the 31st day of December, 1897, to provide a suitable place for the holding of said court in each of said districts, provided that more than one place for holding such court may be provided at any time after this act takes effect in any district, if the said board of justices shall certify that the public convenience requires such additional number of places.

Seals.

Sec. 1,372. The said court in each district shall have official seals furnished at the expense of the city, on which shall be engraved the arms of the state of New York and the words "Municipal Court of New York, Borough of Manhattan" (or whatever the borough may be), "First District" (or whatever the district may be), but nothing herein contained shall authorize such court to issue certificates of naturalization.

Clerks and assistant clerks.

Sec. 1,373. There shall be in and for each district a clerk of said court and in each district in the boroughs of Manhattan, Brooklyn and of the Bronx, an assistant clerk, who shall be appointed by the justice elected or appointed from said district as hereinbefore provided, and shall hold office for the term of six years from the date of appointment; and before entering upon his duties each such clerk or assistant clerk shall file in the office of the controller of the city of New York a bond in the penal sum of five thousand dollars, conditioned for the faithful discharge of his duty and the due accounting for and payment of all money by him received or with him deposited in any action as such clerk or assistant clerk, to be approved by the said controller to be indorsed thereon. Each such clerk and assistant clerk shall receive a salary of three thousand dollars per annum (except in the boroughs of Queens and Richmond, wherein the salary of the clerk shall be two thousand dollars per annum), to be paid in equal monthly installments; and neither said clerks nor assistant clerks nor other employes of said courts shall receive any fee or compensation whatever for their own use for any services performed by them by virtue of their offices other than their salaries; and the duties of such clerks and assistant clerks shall be the same as those now imposed by law upon the clerks and assistant clerks of the district courts in the city of New York. No such clerk, assistant clerk or other employe of such court shall hold any other office or be interested in any other business, except as permitted by the next section, but shall give their whole time to their respective duties and shall reside in the borough in which the district for which they are appointed respectively is situated. For any breach of said bond the appellate division of the supreme court or any justice of the supreme court in the judicial department wherein the district for which such clerk or assistant clerk is appointed is situated, may order the same to be prosecuted in the name of any person damaged by such breach. The clerks, assistant clerks, stenographers, interpreters and attendants of the district courts in the city of New York and of the justices' courts of First, Second and Third districts of the city of Brooklyn, who shall be in office on the first day of January, 1898, shall continue until the expiration of their respective terms, in the like capacities as officers of the said municipal court. Each justice upon appointing a clerk or assistant clerk shall make duplicate certificates of such appointments, stating the term of the appointment and when it will expire, and one of such duplicates shall be filed by him in the office of the city clerk, and the other with the secretary of the board of justices provided for in the next section. The said justices shall in like manner on or before the 30th day of January, 1898, also appoint the officers necessary to attend the court in each district, not exceeding two, at an annual salary of one thousand dollars, and a stenographer in and for each district at an annual salary of two thousand dollars, and in and for each district in the borough of Manhattan an interpreter at an annual salary of twelve hundred dollars. Each of said attendants, stenographers and interpreters, shall be appointed for two years or to fill the residue of an unexpired term. The said justices may remove any of said attendants, stenographers or interpreters, provided that before removal such officers shall have notice of the cause of their proposed removal and an opportunity to make an explanation; and the reasons for any removal shall be briefly entered on such minutes.

Board of justices.

Sec. 1,374. On and after the first day of January, 1898, the justices of said court shall constitute the board of justices of the municipal court and discharge the functions thereof. They may elect a president from their own number and at pleasure remove him and elect a successor. All meetings of said board shall be public and all proceedings shall be recorded in its books of minutes by its secretary and shall be preserved. Such board may designate a clerk of said court for one of said districts to act as secretary of said board, and from time to time substitute another, and fix a reasonable compensation to be paid for such service. Such board shall establish public rules relative to its meetings, which as far as possible shall be held at regular times, to the keeping and preservation of its minutes and the appointment of clerks, assistant clerks and other appointees, and to the public inspection of its minutes under the care of the secretary at reasonable times.

Board to make rules.

Sec. 1,375. Said board of justices shall adopt, and from time to time may amend or add to rules relating to the following subjects:

1. As to the justices who shall hold sessions of said municipal court in each of said districts at times and places to be specified in said rules and to provide for a rotation of the justices holding the same, provided that the justices elected or appointed for any borough shall hold court in said borough; but if a vacancy exists or the illness or other inability of any justice assigned to hold court prevents his attendance any other justice of said court may hold the same. And if at any time before or after the commencement of the trial it shall appear to the satisfaction of the justice that he is a necessary witness on the trial of the cause, or otherwise disqualified to try the same, he shall by an order entered in the cause order the same and the papers in the same to be transferred to an adjoining district, or adjourned to such time as his successor in holding court in said district according to such rules for rotation, may be holding said court as justice may require. Such rules respecting rotation and the designation of justices shall be made on or before the 25th day of January, 1898, and shall be published in the City Record and one newspaper published in each borough at least once before the first day of February.

2. As to the hours at which said courts shall be opened on each day and what officers shall be in attendance.

3. As to the order of business and manner of its discharge.

4. As to the manner in which the clerks and assistant clerks shall perform their duties, the manner of keeping records and papers, the collection and disposition of moneys and keeping accounts of the same.

5. As to the maintenance of order in and about the courts and offices thereof.

Concurrence of majority.

Sec. 1,376. The concurrence of a majority of all the members of said board shall be necessary to adopt any resolution thereof.

Rules of supreme court applicable.

Sec. 1,377. The rules and regulations of the supreme court, as they may be from time to time, shall apply to the municipal court so far as the same can be made applicable.

Clerks to administer oaths.

Sec. 1,378. The clerks and assistant clerks of the said municipal court are authorized to administer oaths in the city of New York in the same manner and with the like effect as clerks of courts of record.

Justices to administer oaths, etc.

Sec. 1,379. The justices of said municipal court may in the city of New York, by virtue of their office, administer oaths, take depositions and acknowledgments and certify the same in the manner and with like effect as justices of courts of record. Sections 914 to 917, inclusive, and section 3,319 of the code of civil procedure apply to the justices of said court.

Access to court houses.

Sec. 1,380. The justices of said court shall have on and after the first day of February, 1898, the like access and possession of the court houses that theretofore were enjoyed by the justices of the district courts and justices of the peace in the territory included within the city of New York as constituted by this act; and it shall be the duty of the municipal assembly of the city of New York and its several officers charged with duties in that behalf to supply and pay for whatever may be necessary for the transaction of the business of said municipal court and the justices thereof, and to supply all proper accommodations, books, stationery and furniture and to pay all salaries, compensations and expenses and disbursements herein authorized, and the board of estimate and apportionment shall annually include in its final estimate such sums as may be necessary to pay the same.

Delivery of papers, etc.

Sec. 1,381. On the first day of February, 1898, it shall be the duty of the district court justices and justices of the peace whose powers and jurisdiction shall have been terminated by the provisions of this act, or of any act abolishing towns within the territory embraced in the city of New York as hereby constituted, or otherwise, and of the clerks

and assistant clerks, deputy clerks or other officers of said district courts or justices' courts to deliver to the justices of the said municipal court all papers, documents and records pertaining to their office.

Disposition of causes pending in district courts etc.

Sec. 1,382. No action or proceeding which shall be pending at midnight, on the 31st day of January, 1898, in any district court or justices' court within the territory included within the city of New York as constituted by this act, shall abate by reason of the passage of this act; but all such actions and proceedings so pending shall be continued thereafter in said municipal court; and the said district courts and justices' courts existing on said 31st day of January, 1898, shall have power to adjourn any action or proceeding then pending before them or either of them to the first day of February following, or to some day thereafter when the same shall be continued before the municipal court in the district wherein such district court or justices' court shall be situated or held; and all papers, documents and records relating to such actions or proceedings shall be transmitted and delivered to the justices designated to hold court in said districts respectively.

Removal.

Sec. 1,383. The justices of said court and the clerks and assistant clerks thereof may be removed for cause after due notice and an opportunity of being heard by the appellate division of the supreme court in the judicial district wherein the district for which said justices were elected or appointed, or wherein the district for which such clerks or assistant clerks were appointed, is situated.

Justices of district courts, etc., to act till February 1, 1898.

Sec. 1,384. Until midnight of said thirty-first day of January, eighteen hundred and ninety-eight, the district courts and justices' courts, and the justices, clerks, assistant clerks, attendants, stenographers, interpreters and other employes thereof, in any and all portions of the territory included within the city of New York, as constituted by this act, shall continue to perform all the duties and exercise all the powers which may be by law imposed on or vested in them on the thirty-first day of December, eighteen hundred and ninety-seven.

TITLE 3.

INFERIOR COURTS OF CRIMINAL JURISDICTION.

Division of city for such purpose.

Section 1,390. For the purposes of administration of criminal justice, the city of New York, as hereby constituted, is divided into two divisions, as follows: The first division embraces the boroughs of the Bronx and of Manhattan; the second division embraces the boroughs of Brooklyn, Queens and Richmond.

Special sessions in first division continued.

Sec. 1,391. The court of special sessions of the city and county of New York now existing is continued with the same powers, duties and jurisdiction as it shall have by law on the thirty-first day of December, one thousand eight hundred and ninety-seven, except as herein otherwise provided and shall be known as the court of special sessions of the First division of the city of New York, and the justices of the said court, and the clerks, deputy clerks, and other employes thereof then in office, shall continue to hold their offices until the expiration of their respective terms. Their successors shall be appointed in the same manner and have the same salary, powers and duties as are provided by chapter 601 of the laws of 1895.

City magistrates in first division continued.

Sec. 1,392. The city magistrates in the city of New York appointed pursuant to chapter six hundred and one of the laws of one thousand eight hundred and ninety-five or of any act amending the same in office when this act takes effect shall continue to hold office until the expiration of their respective terms, and shall be known as the city magistrates of the first division of the city of New York, and they and their successors shall be residents of said first division. They shall each receive during their respective terms of office the salaries which they were receiving at the time this act takes effect. Their successors shall be appointed in the same manner and have the same powers and duties as are provided by said chapter 601 of the laws of 1895 and shall each receive a salary of $6,000 a year. The clerks, clerks' assistants, and other appointees of said magistrates and their courts in office when this act takes effect shall continue therein until the expiration of their respective terms. The board of city magistrates constituted by said chapter 601 of the laws of 1895 shall continue and shall be known as the board of magistrates of the first division of the city of New York. Said magistrates and said board of magistrates and said clerks, assistants and other appointees shall continue to have and exercise the same powers, jurisdiction, functions and duties within said first division as they or any of them shall have by law upon the thirty-first day of December, 1897, except as herein otherwise provided.

Police justices abolished.

Sec. 1,393. From and after midnight of the thirty-first day of January, 1898, the office of police justice in any part of the territory embraced within the second division of the city of New York, as defined in section 1,390 of this act and the court of special sessions in the city of Brooklyn, is and are abolished, and all authority, power, duty and jurisdiction then vested in such police justices, and in the courts held by them, and in the clerks, deputy clerks, police clerks and all other officers and employes of said justices or courts shall cease and determine, except as hereinafter provided.

City magistrates in second division.

Sec. 1,394. From and after midnight of said thirty-first day of January, 1898, there shall be in the said second division of the city of New York eleven city magistrates, with the jurisdiction and powers hereinafter prescribed. The police justices in the former city of Brooklyn in office on the thirty-first day of January, one thousand eight hundred and ninety-eight, shall continue in office for the residue of their respective terms, but shall be known as city magistrates of the second division of the city of New York, and have the powers and duties hereinafter prescribed for city magistrates and no other. On or before the twentieth day of January, 1898, the mayor of the city of New York shall appoint five additional city magistrates, three of whom shall be residents and electors of the borough of Queens, and two of whom shall be residents and electors of the borough of Richmond, all of whose terms shall commence on the first day of February, 1898. The terms of one of said magistrates so appointed for each of said boroughs of Queens and Richmond shall expire on the thirty-first day of December, 1905, and the terms of the remainder of the magistrates so appointed for Queens and Richmond shall expire on the thirty-first day of December, 1907. The successors of said magistrates shall at all times thereafter be appointed by the mayor of said city, and shall be residents and electors of the borough from which said magistrates whom they shall be appointed to succeed were appointed, and shall hold office for ten years. Upon the happening of any vacancy in said office, whether by expiration of a term or for any other cause, the mayor shall appoint some proper person to fill such vacancy within thirty days after the same occurs, and in case such vacancy occurs otherwise than by expiration of a term, the person appointed to fill the same shall be appointed for the unexpired residue of the term.

Salary, etc.

Sec. 1,395. The salary of each of said city magistrates in said Second division shall be six thousand dollars a year, to be paid in equal monthly installments, except that the said magistrates appointed for the boroughs of Queens and Richmond respectively shall each receive a salary of five thousand dollars a year; and provided further, that the police justices of the former city of Brooklyn who become city magistrates pursuant to section 1,394, shall continue to receive during their respective terms of office the salaries which they were respectively receiving at the time this act takes effect. Upon making an appointment of an officer pursuant to this title the mayor shall make three written certificates thereof, each of which shall state the title of the office, the borough from which such officer is appointed, and the term for which the appointment is made. One of such certificates he shall deliver to the person appointed and of the others he shall cause one to be filed in the office of the city clerk, and one to be filed in the office of the clerk of the county in which is situated the borough from which such person is appointed.

Powers.

Sec. 1,396. The said magistrates appointed or continued in office pursuant to this title, shall have and exercise within the said Second division such powers as are conferred by law upon the city magistrates in the city of New York, by chapter six hundred and one of the laws of 1895, and the acts amending the same, except as herein otherwise provided.

Board of magistrates.

Sec. 1,397. The said magistrates appointed and continued in office pursuant to section 1,394 of this act shall constitute the board of city magistrates of the Second division of the city of New York, and said board shall have the same powers, duties, and functions as are specified in sections four, five, six and seven of said chapter 601 of the laws of 1895, except as herein otherwise provided.

Magistrate to be in constant attendance.

Sec. 1,398. A city magistrate shall be in constant attendance in each of the city magistrates' courts between the hours of nine o'clock in the morning and four o'clock in the afternoon on every day except Sundays and legal holidays, but including election day; and the rules for rotation of magistrates to be made as provided in subdivison one of section five of said chapter 601 of the laws of 1895 shall not require the magistrates appointed in said Second division to hold court in any other borough than that for which he was appointed; provided, however, that if a vacancy exists or the illness, absence of other inability of any magistrate assigned to hold any city magistrate's court in either division prevents his holding the same, any other city

magistrate in the city of New York may hold such court.

Transfer of charges.

Sec. 1,399. The provisions of section 9 of said chapter 601 of the laws of 1895, as amended by chapter 908 of the laws of 1895, shall apply to all of said city magistrates and to all charges and complaints brought before any of the said magistrates appointed pursuant to this title.

Clerks and employes.

Sec. 1,400. All the provisions of said chapter 601 of the laws of 1895, relating to the appointment of police clerks, their terms of office, compensation, bonds, powers and duties, the removal of the same, and relating to the appointment, compensation, terms, removal and duties of clerks' assistants, stenographers, interpreters and other necessary attendants (not exceeding two for each court), shall apply to and govern the same matters in the said second division; provided that no such clerk or other officer or employe appointed by said board of city magistrates of said second division shall hold any other office or be interested in any other business, but shall give their whole time to their respective duties, and shall reside in the borough for the city magistrate's court in which they shall be appointed respectively; and the number of such clerks to be so appointed for said second division shall be eleven.

Justices of special sessions appointed.

Sec. 1,401. On or before the twentieth day of January, 1898, the mayor of said city of New York shall appoint five justices of the court of special sessions of the second division of the city of New York provided for by this title, who shall hold office until the thirty-first day of December, 1899, 1901, 1903, 1905, 1907 and 1909 respectively.

Vacancies.

Sec. 1,402. Any vacancy in said office shall be filled by the mayor of said city by appointment within thirty days after its occurrence. If such vacancy occur otherwise than by expiration of a term the person appointed to fill such vacancy shall hold office for the unexpired term of the justice whom he succeeds. If the vacancy occur by the expiration of a term, the person appointed to succeed the justice whose term has expired shall hold office for the term of ten years. The salary of the justices of the court of special sessions in the Second division shall be six thousand dollars a year, to be paid in equal monthly installments.

Qualifications.

Sec. 1,403. The persons eligible to be appointed justices of the court of special sessions and city magistrates in the Second division must possess the same qualifications and be subject to the same regulations and requirements as are prescribed for such justices and magistrates respectively in section twenty-five of said chapter six hundred and one of the laws of eighteen hundred and ninety-five. No person shall be appointed to the office of justice of the court of special sessions or city magistrate unless he shall be a resident of the division of said city for which he shall be appointed.

Clerks.

Sec. 1,404. All the provisions of said chapter six hundred and one of the laws of eighteen hundred and ninety-five respecting the appointment of a clerk and deputy, stenographer, interpreter and other officers, their salaries, terms of office, removal and duties shall apply to the court of sessions in said Second division, except that the term of such clerk, deputy clerk and other officers shall commence on the first day of February, 1898; the terms of such clerk and deputy clerk shall be for five years respectively, and the salary of said clerk shall be three thousand dollars a wear, payable in equal monthly installments. Said clerk and deputy clerk shall be residents of the said second division. The justices of said court of special sessions in the second division of the city of New York shall also appoint a clerk of said court for each of the boroughs of Queens and Richmond, each of whom shall hold office for five years from the first day of February, 1898, and receive a salary of two thousand dollars, payable in equal monthly installments. The said justices may also appoint such officers and attendants for said court in the said boroughs of Queens and Richmond, including stenographers and interpreters as may be necessary for the due transaction of the business of said court, and fix and alter their salaries; subject to the power of reduction thereof given to the board of estimate and apportionment. All the provisions of said act respecting the removal and duties of such officers respectively shall apply to the officers appointed as herein provided.

Court of special sessions; how held.

Sec. 1,405. The court of special sessions of either of said divisions of the city of New York, must be held by three of the justices of said court, and any order, determination or judgment of two of said justices shall be the order, determination or judgment of the court. Said court shall sit in every month of the year in said first division and in each of said boroughs of Brooklyn, Queens and Richmond.

Jurisdiction.

Sec. 1,406. The said courts of special sessions shall have jurisdiction as follows:

1. Except as otherwise provided in this title, the said courts of special sessions of the city of New York shall have in the first instance exclusive jurisdiction to hear and determine all charges of misdemeanors committed within the city of New York, except charges of libel. Provided, however, that the same shall be tried in the county wherein such misdemeanors are charged to have been committed.

The said courts shall, however, be divested of jurisdiction to proceed with the hearing and determination of any charge of misdemeanor in either of the following cases:

First: If before the commencement of the trial in said court of any person accused of a misdemeanor, a grand jury shall present an indictment against the same person for the same offense; or

Second: If, before the commencement of any such trial, a justice of the supreme court in the judicial department where such trial would be had; or, if the charge be triable in the county of New York, the recorder of the city of New York or a judge authorized to hold a court of general sessions of the peace in and for the county of New York; or, if the charge be triable in another county, a county judge of such county shall certify that it is reasonable that such charge shall be prosecuted by indictment. No such certificate shall be made upon the application of a defendant, without at least two days notice to the district attorney, but pending the determination of the application therefor, any justice or judge authorized to make such certificate may order that all proceedings in the court of special sessions, except to admit to bail, be stayed for a period or for successive periods, which shall not in all exceed ten days. Upon the service of said order upon the clerk of the said court of special sessions in the county wherein the charge is triable, all proceedings thereon in said court, except to admit the defendant to bail, shall be stayed until the expiration of the time specified in said order. Upon the filing of the certificate aforesaid with the clerk of the said court of special sessions, in the county wherein the charge is triable, all further proceedings thereon by said court of special sessions shall be stayed, and the said clerk shall within five days thereafter make a return of all proceedings had in the said court of special sessions relating to such charge and transmit such return and all papers relating to such charge, together with said certificate and any undertaking given by the defendant to the district attorney of the county wherein the misdemeanor charged in alleged to have been committed. The said district attorney shall, without delay, present the said charge to the grand jury of said county.

Remission of fines.

2. They shall have jurisdiction at the request of a defendant to remit a fine imposed by them and in place of such fine to substitute in its discretion imprisonment.

Bastardy proceedings.

3. They shall have exclusive jurisdiction in the first instance of all proceedings respecting bastards within the city of New York and the jurisdiction conferred by section 838 to 860 inclusive of the code of criminal procedure shall be exclusively exercised within said city by said courts. The application specified in section 840 of said code of criminal procedure shall be made to the court of special sessions in the county wherein a bastard is born or where the woman pregnant of a bastard likely to be born is.

Application of existing laws.

4. The said court and its justices shall have and exercise all the powers and jurisdiction not inconsistent with this act which on the 31st day of December, 1897, shall by law be vested in the court or justices of special sessions in the city and county of New York and in the police courts, police justices and courts of special sessions in any part of the territory embraced in the city of New York as constituted by this act, excepting that conferred upon police justices of the City of Brooklyn by section 2,234 of the code of civil procedure; and the same jurisdiction and powers in all matters relating to the administration of the criminal law not inconsistent with this act, which on said 31st day of December, 1897, shall by law be vested in justices of the peace in any part of said territory.

Practice.

Sec. 1,407. On and after the first day of February, 1898, all sections of the code of criminal procedure consistent with this act regulating and controlling the practice and procedure of the court of general sessions of the peace in the city and county of New York shall apply, as far as may be, to the practice and procedure in the said courts of special sessions, and shall regulate and control the practice and procedure of said courts in so far as their jurisdiction and organization will permit. All trials in said courts of special sessions provided for by this title shall be without a jury.

Justices to be magistrates.

Sec. 1,408. The justices of said courts of special sessions are magistrates, and shall have and exercise all the jurisdiction and

powers not inconsistent with this act which are by law conferred upon magistrates.

Adoption of rules.

Sec. 1,409. The justices of said courts of special sessions shall meet and adopt, and may from time to time amend or add to rules relating to the following subjects:

1. Regulating the procedure and practice of said courts.

2. Prescribing the duties of the clerks and other officers and attendants of said courts.

Regulation of time, etc.

Sec. 1,410. The justices of said courts of special sessions of said First and Second divisions of the city of New York respectively shall meet and adopt and may from time to time amend or add to rules relating to the following subjects:

1. Establishing the times and places at which said court shall be held within each of said divisions respectively.

2. Assigning the justices to hold said courts from time to time, but if any justice assigned to sit in said court at any time shall be absent any other justice of the court of special sessions in the city of New York may sit in his place and stead.

Sec. 1,411. It shall be the duty of the district attorney of each of the counties of New York and Kings to attend in person or by his assistant at all sessions of said courts of special sessions within his county.

Appeals from city magistrates.

Sec. 1,412. All provisions of law conferring the right of appeal and prescribing the procedure on appeal to the court of general sessions of the peace in the city and county of New York from any judgment or other determination of a police justice, including a judgment of commitment under section two hundred and ninety-one of the penal code, or of any court held by a police justice, shall apply to and regulate all appeals from any judgment or other order or determination of a city magistrate in the county of New York and the right of appeal to said court of general sessions from such judgment or other order or determination of such city magistrate in the county of New York is hereby continued; and the like appeal is hereby granted and conferred from the judgment, order or other determination of a city magistrate elsewhere within the city of New York to the county court of the county where the same is made.

Appeals from special sessions.

Sec. 1,413. The provisions of section 20 of chapter 601 of the laws of 1895 respecting appeals from a judgment or determination of the court of special sessions in the city and county of New York shall continue and apply to appeals from the courts of special sessions in the city of New York, as constitued by this act.

Delivery of papers, etc.

Sec. 1,414. On the first day of February, 1898, it shall be the duty of the police justices, justices of the peace and other officers whose powers and jurisdiction shall have been terminated by any of the provisions of this act or of any act abolishing towns and villages within the territory embraced within the city of New York, as hereby constituted, or otherwise, to deliver over to the city magistrates appointed pursuant to this title all papers, documents and records of their courts appertaining to their offices, and in like manner to deliver over to the justices of the court of special sessions appointed pursuant to this act all papers, documents and records pertaining to the court of special sessions.

Possession of court houses.

Sec. 1,415. The city magistrates and justices of the court of special sessions appointed or continuing in office pursuant to this title shall have on and after said first day of February, 1895, the like access and possession in respect to the court houses or other places provided for the proceedings of police justices within said city, as hereby constituted, as were theretofore enjoyed by the police justices in the territory embraced within said city, as so constituted. And it shall be the duty of the city of New York and its several officers charged with duties in that behalf to supply and pay for whatever may be necessary for the transaction of business of the said city magistrates and courts of special sessions and the justices thereof, and to supply all proper court houses and accommodations, books, stationery and furniture, and to pay all salaries, compensations, expenses and disbursements herein authorized or authorized by said chapter 601 of the laws of 1895; and the board of estimate and apportionment shall annually include in its final estimate such sums as may be necessary to pay such salaries, compensations, expenses and disbursements.

Pending actions.

Sec. 1,416. No criminal action or other proceeding which shall be pending in any court of special sessions or any proceeding respecting bastards which shall be pending before a police justice or a justice or justices of the peace within the territory embraced in the city of New York, as constituted by this act, at midnight on the thirty-first day of January, 1898, shall abate or be anywise affected by the passage of this title, and all such actions or other proceedings so pending shall thereafter be continued before the court of special sessions, as provided for by this title. And any court of special sessions or justice of the peace before whom any such action or proceeding shall be pending at said time shall have power to adjourn the same to the first day of February or some day thereafter, when the same shall be continued before the court of special sessions as herein provided for.

Designation of magistrates.

Sec. 1,417. The mayor of the city of New York shall on or before the twenty-fifth day of January, 1898, designate in respect to all actions and proceedings which shall be pending at midnight on the said thirty-first day of January, 1898, before each of the police justices and justices of the peace in the territory embraced within the said second division of the city of New York, which of the magistrates appointed by him, pursuant to this act, shall thereafter have jurisdiction thereof, and the same shall be thereafter transferred to and continued before the several magistrates so designated respectively. Such designation shall be published by the mayor for three days prior to the first day of February, 1898, in the City Record, and at least once in a newspaper published in each borough within said second division.

Justices to act.

Sec. 1,418. Until midnight of said thirty-first day of January, 1898, the several police justices and justices of the peace within the territory included within said second division shall continue to exercise all the authority, power, jurisdiction and duties given and imposed upon them by law on the thirty-first day of December, 1897.

TITLE 4.

THE MARSHALS.

Sec. 1,424. The marshals in the city of New York as heretofore known and bounded, and the marshals and constables in the cities of Brooklyn and Long Island City, and in the several towns mentioned in section 1 of chapter 1 of this act, in office at the time this act shall take effect, shall continue to hold such offices and perform the duties thereof until midnight of the thirty-first day of January, one thousand eight hundred and ninety-eight, and said terms of office shall then expire, except those of the marshals in the late city of New York and the marshals in the late city of Brooklyn, who shall continue to be marshals of the city of New York, as hereby constituted, till the expiration of their respective terms.

Sec. 1,425. On or before the twentieth day of January, 1898, the mayor of the city of New York shall appoint ten marshals in the manner provided in the next section, who shall hold their respective offices for six years, and there shall be appointed in the like manner every sixth year hereafter the same number of marshals for the like terms. Any person appointed after the commencement of the term, as herein prescribed, shall hold only until the expiration of the term and until a successor is duly appointed and qualified.

Sec. 1,426. Six of said marshals so to be appointed shall be residents of the borough of Queens and four residents of the borough of Richmond, and said marshals shall be assigned by the mayor to such duty within the boroughs wherein they reside respectively as is or may be provided by law.

Sec. 1,427. On the expiration of the terms of said marshals of the city of New York mentioned in the last clause of section 1,424 of this act, the said mayor shall appoint their successors for terms of six years respectively.

Sec. 1,428. In so far as consistent with this act, the provisions of law relating to the bonds, duties, powers and fees of marshals, and all other matters concerning marshals in the city of New York in force on the thirty-first day of December, 1897, shall apply to the marshals appointed or continued in office pursuant to this title; provided, however, that the bonds of said marshals so appointed pursuant to this title shall be filed in the office of the city clerk, and that in the prosecution of the official bonds of all marshals, application for leave to prosecute the same shall be made to a justice of the supreme court at chambers in the judicial department wherein the borough for which such marshal shall have been appointed is situated, and such leave shall not be granted unless it appears that a transcript of the judgment against such marshal has been filed in the office of the clerk of the county within which such borough is situated, and such justice may order such bond to be prosecuted in the municipal court of the city of New York, or in the city court of the city of New York if such borough be within the county of New York, or in the county court of the county wherein such borough lies, if in any other county.

Sec. 1,429. The mayor may remove any marshal, after giving him an opportunity to be

heard, upon charges in writing preferred against such marshal and filed with the mayor.

CHAPTER XXI.

THE ACQUISITION OF LANDS AND INTERESTS THEREIN FOR PUBLIC PURPOSES.

Procedure for acquirement of lands and interests therein.

Sec. 1,435. Whenever the city of New York, or any of the departments, including the department of education, or boards of the said city government, shall be authorized by law to acquire title to real estate or any tenements, hereditaments, corporeal or incorporeal rights in the same, for any public use or purpose by condemnation, the proceeding for that purpose shall be taken and conducted in the manner prescribed in this title, except as provided in section 1,448 of this act.

Maps to be prepared. Entry on premises for examination thereof.

Sec. 1436. When any such lands have been selected, and the said department or board has determined to take proceedings for the acquisition of the same, said department or board shall cause two similar surveys, maps or plans thereof to be prepared, one of which shall be filed in the office of the said department or board, and the other of which shall be filed in the office of the register or county clerk of the county in which the lands are situated; and it shall be lawful for the duly authorized agents of the said department or board, and all persons acting under its authority, and by its direction, to enter, in the daytime, into and upon any and all lands, tenements and hereditaments which it shall be necessary to enter into and upon for the purpose of making such surveys, maps or plans or for the purpose of making such soundings or borings as the said department or board may deem necessary.

Appointment and duties of commissioners o estimate.

Sec. 1,437. When the said maps, surveys or plans have been filed as hereinbefore provided, the said department or board of the said city acting by and through the corporation counsel of said city, is hereby authorized to make application to a special term of the supreme court, in and for the judicial district in which said lands are situated, for the appointment of commissioners of estimate, and the said court shall thereupon name three discreet and disinterested persons, being residents of the city of New York, as such commissioners of estimate, for the purpose of performing the duties hereinafter mentioned. Ten days' notice of such application, Sundays and holidays excluded, shall be published in the City Record and the corporation newspapers, and also at the option of the corporation counsel in other newspapers, not exceeding three in number, published in said city of New York. Upon the appointment of said commissioners they shall severally take and subscribe an oath or affirmation, before some officer authorized to administer oaths, in the form required by section 1 of article 13 of the constitution of this state, which oaths shall be forthwith filed in the office of the clerk of the supreme court in the judicial district in which said lands are situated. It shall be the duty of the said commissioners, after having viewed the said lands, tenements, hereditaments and premises required for public uses and purposes, as above set forth, to make a just and equitable estimate of the loss and damage to the respective owners, lessees, parties and persons respectively entitled to or interested in the said lands, tenements, hereditaments and premises, and to make report thereof to the said supreme court with due diligence.

Reports of commissioners of estimate. Presentation thereof to the court. When title to vest in city.

Sec. 1,438. In each and all and every case when the owners, or parties interested, or their respective estates and interests are unknown, or not fully known, to the said commissioners, it shall be sufficient for them to estimate and set forth and state in their said reports, in general terms, the respective sums to be allowed and paid to the owners and proprietors generally of such lands, tenements, hereditaments and premises and parties interested therein, for the loss and damage to such owners, proprietors and parties interested in respect of the whole estate and interest of whomsoever may be entitled unto or interested in said lands, tenements, hereditaments and premises respectively, by and in consequence of the taking of the same as herein provided, without specifying the names of the estate or interests of such owners, proprietors and parties interested, or either of them, and upon the coming in of the said report, signed by the said commissioners, or a majority of them, the said supreme court at a special term thereof held in and for the judicial district as aforesaid, shall, by order, upon application of the said city, or the said department or board of the government thereof conducting said proceeding, after hearing any matter which may be alleged against the same, either confirm said report in whole or in part or refer the same back to the same commissioners for revisal and correction, or to new commissioners, to be appointed by the said court, to reconsider the subject matter thereof, and the said commissioners to whom the said report shall be so referred shall return the said report, corrected and revised, or a new report, to be made by them, as aforesaid, in the premises, to the said court, without unnecessary delay, and the same on being so returned shall be confirmed or again referred by the said court, as justice shall require, and such report when confirmed by said court, in whole or in part, shall be final and conclusive, as well upon the said city and the said department or board as upon the owners, lessees, persons and parties interested in and entitled to the lands, tenements, hereditaments and premises mentioned in said report, and also upon all other persons whomsoever. And on the final confirmation of said report, the said city of New York, except as hereinafter provided, shall become and be seized, in fee simple absolute, of the lands included in said report, the same to be converted, appropriated and used to and for the purposes for which the same shall be acquired accordingly. And thereupon the said city, acting by and through the department or board instituting and having charge of said proceeding, shall immediately take possession of the same, without any suit or proceedings at law for that purpose, and all leases and other contracts in regard to the said lands so taken, or any part thereof, and all covenants, contracts, or engagements between landlords and tenants, or any other contracting parties, shall, upon the confirmation of such reports respectively cease and determine and be absolutely discharged according to law.

When title may be vested by resolution.

Sec. 1,439. Should the department or board of the said city government instituting the said proceeding, deem it for the public interest that the title to the lands and premises, or any interest therein, required for any public improvement or for any public purpose and acquired hereunder, should be acquired by the city of New York at a fixed or specified time, the said department or board may direct, by resolution passed before the application to the court for the appointment of commissioners of estimate, made under section 1,437 of this act, and which said resolution shall be recited in the petition for the appointment of such commissioners, that at a date four months after the filing of the oaths of said commissioners, the title to any piece or parcel of land, or to any interest therein, to be taken or acquired in the said proceeding, shall vest in the city of New York. At the expiration of said four months from the filing of said oaths, the said city of New York shall become and be seized in fee of said lands, tenements and hereditaments and all interests therein in said resolution mentioned, that shall or may be acquired as aforesaid, the same to be held, appropriated, converted and used to and for the purposes for which the said proceeding is instituted. In such cases interest at the legal rate upon the sum or sums to which the owners, lessees, parties or persons interested in the said real estate or interests therein are justly entitled upon the date of the vesting of title in the city of New York, as aforesaid, from said date to the date of the payment of the award made to such owners, lessees, parties or persons in interest shall be paid as hereinafter set forth. And at the expiration of the said four months and upon the vesting of said title, the said city, acting by and through the said department or board conducting said proceeding, shall immediately take possession of the lands included in the same and the interests thereby affected, without any suit or proceeding at law for that purpose. And all leases and other contracts in regard to said lands so taken, or any part thereof, and all covenants, contracts or engagements between landlords and tenants or any other contracting parties shall, upon the vesting of said title, respectively cease and determine and be discharged according to law.

Notice of deposit and presentation of report; payment of awards with interest.

Sec. 1,440. The said commissioners of estimate, at least fourteen days before they present their report to the supreme court, shall deposit a true report or transcript of such estimate in the office of the department or board conducting such proceeding, for the inspection of whomsoever it may concern, and shall give daily notice by advertisement in the City Record and the corporation newspapers, and also, at the option of the corporation counsel, in other newspapers, not exceeding three in number, published in said city of New York, for ten days, Sundays and holidays excluded, after depositing such report, of the said deposit thereof in said office, and for the day on which the said report will be presented to said court, and any person or persons whose rights may be affected thereby, and who may object to the same, or any part thereof, may, within ten days after the first publication of such notice, set forth their objections to the same in writing to the said commissioners, who shall, after hearing the parties so objecting, thereupon reconsider their said estimate and assessment, or the part or parts thereof so objected to, and in case the same shall appear to them to require correction, but not otherwise, they shall and may correct the same accordingly. The said city of New York shall, within two

calendar months after the confirmation of the said report, pay to the parties entitled thereto the respective sum or sums so estimated and reported in their favor respectively, with lawful interest from the date of the confirmation of the report of said commissioners, or if title to said lands shall have vested in the city under section 1,438 of this act, from the date of said vesting; and in default thereof said persons or parties respectively, his, her, of their respective heirs, executors, administrators, successors or assigns, may at any time or times after application first made, by him, her, or them to the controller of the city of New York for payment thereof, sue for and recover the same with lawful interest, as aforesaid, and the costs of suit.

Owners unknown, infants, or of unsound mind.

Sec. 1,441. Whenever the owners and proprietors of any lands, tenements, hereditaments and premises to be taken for any of the purposes aforesaid, or the party or parties, person or persons interested therein, or any or either of them, the said owners, proprietors, partites or persons, in whose favor any such sum or sums or compensation shall be so reported, shall be under the age of 21 years, non compos mentis or absent from the city of New York; and also in all cases where the name or names of the owner or owners, parties or persons entitled unto or interested in any lands, tenements, hereditaments or premises that may be so taken for any of the purposes aforesaid, shall not be set forth or mentioned in said report; or when the said owners, parties or persons respectively, being named therein, cannot, upon diligent inquiry, be found, it shall be lawful for the said city of New York to pay the sum or sums mentioned in the report as payable, or that would be coming to such owners, proprietors, parties and persons respectively, into the supreme court, to be secured, disposed of, improved and paid out, as the appellate division of the supreme court, in said judicial district, shall direct; and such payment shall be as valid and effectual in all respects as if made to the said owners, proprietors, parties and persons respectively, themselves, according to their just rights, if they had been known, and had all been present, of full age, compos mentis; and provided, also, that in all and each and every case or cases, where any such sum or sums or compensation, so to be reported by said commissioners in favor of any person or persons, party or parties whatsoever, whether named or not named in said report, shall be paid to any person or persons, party or parties whatsoever, when the same shall of right belong to and ought to have been paid to some other person or persons, party or parties, it shall be lawful for the person or persons, party or parties to whom the said sum or sums ought to have been paid, to sue for and recover the same, with lawful interest and costs of suit, as so much money had and received to his, her or their use, by the person or persons, party or parties, respectively, to whom the same shall have been so paid. Payment of the compensation awarded by said commissioners of estimate to the persons named in their report (if not infants or persons of unsound mind) shall, in the absence of notice to the controller of the city of New York of adverse claims thereto, protect said city. The said commissioners of estimate shall include and set forth in their report the names of the respective owners, lessees, parties and persons entitled unto or interested in said report, and each and every part and parcel thereof, as far forth as the same shall be ascertained by them, and add a designation and description of such respective lands and parcels of land aforesaid, and also the several respective sums estimated as and for the compensation and recompense or allowance to be made for the loss and damage of the respective owners of the fee or inheritance of such lands, tenements, hereditaments and premises respectively, and for the loss and damage of the respective owners of the leasehold estate, or their interest therein, separately. And the said commissioners shall also include in said report the amount of their fees and all costs and disbursements for expenses of surveys, maps and other things.

Appeal.

Sec. 1,442. Within twenty days after notice of the confirmation of the report of the commissioners as provided for in section 1,438 of this act, any party interested and deeming himself or themselves aggrieved may appeal by notice in writing to the other party, to the appellate division of the supreme court in said judicial district from the appraisal and report of the commissioners. Such appeal shall be heard on due notice thereof, being given according to the rules and practice of said court. On the hearing of such appeal, the court may direct a new appraisal and determination of any question passed upon, by the same or new commissioners, in its discretion, but from any determination of the special term an appeal may be taken upon the merits of the said appellate division of said court and from any determination of the said appellate division any party, if aggrieved, may take an appeal to the court of appeals, but only as to a question affecting the principle of the assessment of damages by the said commissioners. In the case of a new appraisal the second report shall be filed and notice thereof given, and such review upon appeal or otherwise be had as in the case of an original report, and so from time to time until a report shall be presented which the said court at special term shall finally affirm, and shall be affirmed upon appeal, should any appeal be taken. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this title except as to the particular parcel of real estate with which the said appeal is concerned. Such appeal shall be heard upon the evidence taken before such commissioners, and any affidavits as to irregularities.

Removal, etc., of commissioners of estimate.

Sec. 1,443. In case of death, resignation, insanity, disqualification, refusal or neglect to act, or removal of any such commissioner of estimate appointed as in this chapter provided, it shall and may be lawful for the court aforesaid, at a special term thereof, held in the judicial district as aforesaid, on the application of the department or board of the said city of New York, conducting said proceeding, as often as such event may happen, to appoint a discreet and disinterested person, being a resident of the said city of New York, in the place and stead of such commissioner so dying, resigning, becoming insane or disqualified, refusing or neglecting to act, or removed, and the surviving commissioners, as the case may be, shall have full power to proceed in the execution of the duties of their appointment until the successor of the commissioner so dying, becoming insane, resigning, being disqualified, neglecting or refusing to act, or removed, shall be appointed. Ten days' notice of said application shall be given to all parties who have appeared in the proceeding.

Powers of commissioners and of a majority thereof; fees, expenses.

Sec. 1,444. In each and every case of the appointment of commissioners under this act, it shall be competent and lawful for any two of such commissioners so appointed as aforesaid, to proceed to and execute and perform the trusts and duties of their said appointment, and their acts shall be as valid and effectual as the acts of all the commissioners if they had acted together would have been; and further, in all cases, the acts, proceedings and decisions of a major part of such of the commissioners as shall be acting in the premises, shall be as valid, binding and effectual as if the said commissioners named and appointed for such purposes had all concurred and joined therein. In the said proceedings, any of the said commissioners of estimate may issue subpenas and administer oathes to witnesses. The commissioners appointed under and by virtue of this title, who shall enter upon the duties of their appointment, shall each be entitled to receive such compensation as shall be awarded by the court, upon the confirmation of their respective reports, not exceeding ten dollars for each day upon which they shall meet and be actually and necessarily employed in the performance of their duties as commissioners, beside all reasonable expenses, to be taxed and allowed by said court for maps, surveys, clerk hire, and other necessary expenses and disbursements, and the same shall be included in, considered and paid as part of the expenses of acquiring the lands or interests therein for the acquirement of which the said proceeding is instituted.

Amendments of defects.

Sec. 1,445. The special term of the supreme court, in the judicial district, as aforesaid, shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this title that may be necessary, or to permit any person having an interest therein, to be made a party thereto, or to relieve from any default, mistake or irregularity, or to direct such further notices to be given to any party in interest as it deems proper. And the said court may, at any time, remove any of said commissioners of estimate who, in its judgment, shall be incapable of serving, or who shall, for any reason in its judgment, be an unfit person to serve as commissioner. The cause of such removal shall be specified in the order making the same. If in any particular it shall at any time be found necessary to amend any pleading, proceeding, or to supply any defect therein arising in the course of any special proceeding authorized by this act, the same may be amended or supplied in such a manner as shall be directed by the said special term of the supreme court, which is hereby authorized to make such amendment or correction.

Corporation counsel to appear and protect interests of the city.

Sec. 1,446. The corporation counsel shall, either in person, or by such counsel as he shall designate for the purpose, appear for and protect the interests of the city in all such proceedings in court and before the commissioners of estimate.

Source of payment of awards and expenses.

Sec. 1,447. The amounts of the awards made in a proceeding brought under this title for the value of lands and interests therein taken hereunder, shall be paid out of the fund created by the act authorizing the acquirement of the said lands or interests therein, and the money for the payment thereof, together with the fees of the commissioners of estimate, the compensation of such necessary clerks or assistants as they may employ, and all other necessary expenses in and about the special proceeding instituted under this title, including the fees of counsel employed by the cor-

poration counsel in the proceeding, and all other reasonable expenses incurred by said corporation counsel in the conduct of said proceeding, shall be also paid out of the said fund so provided. Such fees and expenses shall not be paid until they have been taxed at a special term of the supreme court in the judicial district as aforesaid, upon five days' notice to the corporation counsel of the city of New York. Upon such taxation due proof of the nature and extent of the services rendered and disbursements charged shall be furnished, and no unnecessary costs or charges shall be allowed. All such costs, fee and expenses or disbursements to be taxed, as aforesaid, shall be stated in detail in the bill of costs and charges and expenses, and shall be accompanied by such proof of the reasonableness and necessity thereof, as is now required by law and the practice of the said court upon taxation of costs and disbursements in other special proceedings or actions in said court.

What proceedings excepted from provisions of this title.

Sec. 1,448. The provisions of this act shall not apply to any proceedings for the purpose of opening any streets, avenues, or public places, parks or parkways, or to any proceedings for the improvement of or in connection with the water supply of the city of New York, or for the acquisition of wharf property for the improvement of the water front of said city, or to any proceedings, of any nature, instituted prior to the time of the taking effect of this title, and such proceeding shall be conducted in all respects as if this title had not been passed.

CHAPTER XXII.

GENERAL STATUTES.

Title 1. The Streets.
2. Amusements.
3. Birds.
4. Commercial paper during epidemic.
5. Pharmacists and druggists.
6. Board of City Record.
7. General provisions.
8. Coroners.

TITLE 1.

THE STREETS.

Municipal assembly to regulate driving, etc.

Section 1,454. The municipal assembly is hereby authorized and empowered to pass ordinances regulating the rate of speed at which horses shall be driven or ridden, and at which vehicles shall be propelled through any street within the city of New York, and to pass ordinances regulating the use of the streets in said city by foot passengers, vehicles and animals. Any person violating any ordinance so passed shall be deemed guilty of a misdemeanor and upon conviction thereof by any magistrate, either upon confession of the party or competent testimony, may be fined for such offense any sum fixed by such ordinance as a penalty not exceeding $10, and in default of payment of such fine, may be committed to prison by such magistrate until the same be paid; but such imprisonment shall not exceed ten days. Until the municipal assembly shall pass ordinances regulating the matters which by this title it is authorized to regulate, the laws and ordinances now applicable to such matters in the different parts of the city of New York, as constituted by this act, shall continue and remain in full force and effect.

Law of the road.

Sec. 1,455. In all cases of persons meeting each other in any street in the city of New York, in carriages, wagons, carts, bicycles, tricycles or sleighs, each person so meeting shall go to that side of the street on his right, so as to enable the carriages, wagons, carts, bicycles, tricycles or sleighs so meeting to pass each other, under the penalty of five dollars for every offense, to be recovered by an action with costs of suit, in any court having cognizance thereof, by any person suing for the same. The proprietor of the carriage, wagon, cart, bicycle, tricycle or sleigh, neglecting or refusing to turn to the right, as above directed, shall be considered if present at the time of such meeting, as the person committing the said offense, and if absent, then the driver of such carriage, wagon, cart or sleigh, or the rider of such bicycle or tricycle shall be so considered.

Rubbish, nails, etc., not to be thrown in the streets.

Sec. 1,456. No person or persons shall throw, cast or lay, or direct, suffer, or permit any servant, agent, or employe to throw, cast or lay any ashes, offal, vegetables, garbage, dross, cinders, shells, straw, shavings, paper, dirt, filth or rubbish of any kind whatever, in any street in the city of New York. The willful violation of any of the foregoing provisions of this section shall be and is hereby declared to be a misdemeanor, and shall be punished by a fine of not less than one dollar nor more than ten dollars, or by imprisonment for a term of not less than one, nor more than five days. It shall be a misdemeanor, punishable by a fine of not more than five dollars for the first offense nor more than ten dollars for the second offense, and for the third offense not less than twenty-five nor more than fifty dollars, or by imprisonment for not less than three nor more than thirty days, or by both such fine and imprisonment, for any person being the owner or the agent, or the employee of the owner of any truck, cart, wagon, or other vehicles, or of any box, barrel, bale of merchandise, or other movable property, to leave, or suffer or permit to be left, such truck, cart, wagon or other vehicles unharnessed upon any public street within the city of New York; or, except upon such portion of any marginal street or wharf or place as, by the provisions of this act, is committed to the custody and control of the board of docks, to leave, or suffer or permit to be kept, any such barrel, box, bale, or other property, or to erect or cause to be erected, any shed, building or other obstruction upon any such public street; but a truck, cart, wagon or vehicle for which a permit shall have been issued under the provisions of this act, may lawfully occupy, between the hours of six o'clock in the evening and seven o'clock in the morning, and on Sundays and legal holidays, but at no other time, and in such case only so long as said permit remains in force under the provisions of this act, the particular portion of any street designated and described in said permit, and also except that in case of an accident to a truck, cart, wagon or other vehicle, the owner or driver of said truck, cart, wagon or other vehicle, if it be disabled by such accident, shall be allowed a reasonable time, not exceeding three hours, to remove it.

Every person who shall willfully throw, expose or place or who shall willfully cause or procure to be thrown, exposed or placed, in or upon any street in the city of New York, open for the passage of animals, any nails, pieces of metal, glass or other substance or thing which might maim, wound, lame, cut or otherwise injure any animal, shall be guilty of a misdemeanor.

Every person who shall willfully throw, expose or place, or who shall cause or procure to be thrown, exposed or placed in or upon any street in the city of New York, open for the passage of animals, except upon the curves, crossings or switches of railroad tracks, any salt, or saltpeter, for the purpose of dissolving any snow or ice which may have fallen or been deposited thereon, shall be guilty of a misdemeanor.

Processions and parades; regulations concerning.

Sec. 1,457. All processions or parades occupying or marching upon any street, to the exclusion or interuption of other citizens in their individual right and use thereof (excepting the national guard and the police and fire departments, and associations of veteran soldiers) are forbidden unless written notice of the object, time and route of such procession or parade be given by the chief officer thereof, not less than six hours, previous to its forming or marching, to the police authorities of the city, and it may be lawful for said police authorities to designate to such procession or parade how much of the street in width it can occupy, with especial reference to crowded thoroughfares through which said procession may move, and, when so designated, the chief officer of said procession or parade shall be responsible that the designation is obeyed; and it shall be the duty of the police authorities to furnish such escort as may be necessary to protect persons and property and maintain the public peace and order.

All processions or parades on Sunday, in any street of the city, excepting only funeral processions engaged in the actual burial of the dead, and processions to and from any place of worship in connection with a religious service there celebrated, are forbidden; and in no such excepted case shall there be any music, fireworks, discharge of cannon or firearms, or other disturbing noise; provided that in any military or Grand Army of the Republic funeral music may be played while escorting the body to and from such places, but such music shall not be played within one block of any place of worship where worship is being celebrated.

Every person willfully violating any provision of this section or any ordinance passed by the municipal assembly pursuant to the last preceding section shall be guilty of a misdemeanor punishable with a fine not exceeding $20 or imprisonment not exceeding $10, or both, at the discretion of the court.

Stages and omnibuses; consent of property owners necessary before franchise granted.

Sec. 1,458. No stage or omnibus route, or authority to run stages or omnibuses in the city of New York, shall hereafter be granted by the municipal assembly unless a majority of the owners of property upon the streets in or upon which any such route or privilege is to be operated shall, before the municipal assembly act upon the subject, first consent in writing thereto.

Id. Application to mayor, etc., before route established.

Sec. 1,459. Before any route for the running of omnibuses or stages shall be established or allowed to be operated in said city, except as provided in section fourteen hundred and seventy-one of this act, the application therefor shall be made in writing to the mayor of said city, specifying the route proposed to be established and the number of stages or omnibuses proposed to be run thereon; and unless the said mayor shall communicate such application to the municipal assembly with his approval thereof, and said municipal assembly after receiving such com-

munication and approval shall vote in favor thereof by a majority vote of each house, no such route shall be established or operated; and upon such favorable action such route may be established and operated accordingly, and the ownership thereof may be transferred.

Id. Stage route to be disposed of like other franchises.

Sec. 1,460. Any stage route or privilege hereafter granted by the municipal assembly shall be disposed of in the manner provided by law for the disposition of the franchises of said city.

Id. Not to be run except in conformity with preceding sections.

Sec. 1,461. It shall not be lawful to run stages or omnibuses in the city of New York, as constituted by this act, except in conformity with the preceding sections.

Willfully breaking street lamps, etc.

Sec. 1,462. If any person shall willfully break, take down or carry away any glass lamp hung or fixed in any of the streets of the city of New York; or extinguish the lights therein, or be aiding or abetting in the same or shall willfully break or deface any glass, window, porch, knocker, or other fixture in the said city, and shall be convicted thereof before the recorder, or before any city magistrate, either by the confession of the party or by the oath of one or more credible witness or witnesses, he or she shall, for every such offense, pay a fine not exceeding twenty-five dollars. Upon refusal of payment of such fine, it shall and may be lawful for such recorder or justice, before whom such conviction shall take place, to commit such offender to the penitentiary, there to remain until such fine and costs are paid; but not longer than for the space of two months, and if any such offense shall be committed by any apprentice or servant, such forfeiture shall be paid by his or her master or mistress, or in default thereof, such apprentice or servant shall be committed to such penitentiary in manner aforesaid.

d. Detaining offender until name ascertained.

Sec. 1,463. It shall and may be lawful to and for any sheriff, deputy sheriff, marshal, or member of the police force, who shall see any person commit any of the mischiefs or trespasses aforesaid, if such person or persons shall be unknown to such sheriff, deputy sheriff, marshal, or member of the police force, to seize, secure, and detain such offender so unknown to him as aforesaid, until he can discover the name of such offender, or until the next morning (if the offense shall be committed in the night time and the offender shall refuse to discover his or her name) when such offender shall be brought before the recorder or one of the police justices or city magistrates, who on conviction of such offender shall proceed against him or her in the manner hereinbefore directed; and further, in case any person shall commit any or either of the offenses aforesaid in the presence of such sheriff, deputy sheriff, marshal, or member of the police force, then every such sheriff, deputy sheriff, marshal or member of the police force shall forthwith give information thereof to such recorder or either of the police justices or city magistrates, in order that such offender may be convicted thereof and punished.

Id. Preceding sections no bar to suit by person injured.

Sec. 1,464. Neither the two preceding sections, nor anything therein contained, shall bar or preclude any person or persons from recovering his, her or their damages against any other person or persons who shall be guilty of any of the mischiefs or trespasses aforesaid, but the same may be recovered in the same manner as if they had never been passed.

Id. Informer relieved of penalty, etc.

Sec. 1,465. If two or more persons shall have been jointly concerned in committing any of the offenses aforesaid, and one or more of them (not being before informed against) shall within the space of one month after the offense committed, inform against any or all the other or others concerned in the same offense so as to convict him, her or them, the person so informing shall not be liable to the payment of the fine hereinbefore mentioned.

Definition of "street."

Sec. 1,466. Whenever the word "street" or the plural thereof occurs in this chapter, it shall be deemed to include, unless otherwise expressly stated, all that is included by the terms "street, avenue, road, alley, lane, highway, boulevard, concourse, public square and public place," or the plurals thereof, respectively.

TITLE 2.

AMUSEMENTS.

Public exhibitions to be licensed.

Sec. 1,472. It shall not be lawful to exhibit to the public in any building, garden or grounds, concert room or other place or room within the city of New York, any interlude, tragedy, comedy, opera, ballet, play, farce, minstrelsy or dancing, or any other entertainment of the stage, or any part or parts therein, or any equestrian, circus or dramatic performance, or any perfomance of jugglers, or rope dancing, or acrobats, until a license for the place of such exhibition for such purpose shall have been first had and obtained, as hereinafter provided.

Police department grants license. Fee. Penalty for neglect to obtain license.

Sec. 1,473. The police department is hereby authorized and empowered to grant such license, to continue in force until the first day of May next ensuing the grant thereof, on receiving for each license so granted, and before the issuing thereof, the sum of five hundred dollars; and every manager or proprietor of any such exhibition or performance who shall neglect to take out such license, or consent, or cause, or allow any such exhibition or performance, or any single one of them without such license, and every person aiding in such exhibition, and every owner or lessee of any building, part of a building, garden, grounds, concert room or other room or place, who shall lease or let the same for the purpose of any such exhibition or performance, or assent that the same be used for any such purpose, except as permitted by such license, and without such license having been previously obtained and then in force if the same shall be used for such purpose, shall be subject to a penalty of $100 for every such exhibition or performance, which penalty shall be prosecuted, sued for and recovered in the name of the city of New York, and shall be paid to the chamberlain of the city of New York, to be paid into the treasury of said city.

Id. Commutation of license fee.

Sec. 1,474. The said police department is hereby authorized to grant licenses for said exhibitions or performances for any term less than one year, and in any case where such license is for a term of three months or less, the said police department is hereby authorized to commute for a sum less than $500, but in no case less than $250 for a theater, or $150 for a circus, concert room, or other building or place whatsoever.

Id. Fees to be paid over to controller.

Sec. 1,475. Upon granting every such license authorized by this title, the said police department shall receive from the person to whom the same shall be granted the amount payable for said license, as above provided, which amounts as respectively received by it shall be paid over to the controller of the city of New York, to be paid into the treasury of said city.

Revocation of license.

Sec. 1,476. Any license provided for by the preceding sections may be revoked and annuled by any judge or justice of any court of record in said city upon proof of a violation of any of the provisions of this title; such proof shall be taken before such judge or justice, upon notice of not less than two days to show cause why such license should not be revoked; said judge or justice shall hear the proofs and allegations in the case, and determine the same summarily; and no appeal shall be taken from such determination; and any person whose license shall have been revoked or annuled shall not thereafter be entitled to a license under the provisions of said sections; on any examination before an officer, pursuant to a notice to show cause as aforesaid, the accused party may be a witness in his own behalf.

Penalty for violating provisions of this title.

Sec. 1,477. Any person violating any of the provisions of sections 1,472 and 1,473 of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the penitentiary for a term not less than three months nor more than one year, or by a fine not less than $100 nor more than $500, or by both such fine and imprisonment.

Police, etc., to arrest offenders.

Sec. 1,478. It shall be the duty of every sheriff, deputy sheriff, constable and of every member of the police force to enter at any time said places of amusement and to arrest and convey any person or persons violating any provisions of sections 1,472 and 1,473 of this act, forthwith, before any city magistrate or recorder having jurisdiction in said city, there to be dealt with according to law.

Corporation counsel may enjoin exhibitions without license.

Sec. 1,479. In case any person shall open or advertise to open any theater, circus or building, garden or ground, concert room or other place for any such exhibition or performance in said city, referred to in section fourteen hundred and seventy-two of this act without first having obtained a license therefor, as provided for by section fourteen hundred and seventy-three of this act, it shall and may be lawful for the corporation counsel of the city of New York to apply to the supreme court, or any justice thereof, for an injunction to restrain the opening thereof until he shall have complied with the requisites of said section in obtaining such license and also with such order as to costs as such court or justice may deem just and proper to make which injunction may be allowed upon a complaint to be in the name of the city of New York in the same manner as injunctions are now usually allowed by the practice of said court. Any injunction allowed under this section may be served by posting the same

upon the outer door of the theater or circus or building wherein such exhibitions may be proposed to be held, or if the same shall be in a garden or grounds, then by posting the same at or on or near the entrance way to any such place of exhibition; and in case of any proceeding against the manager or proprietor of any such theater, circus, or building, or garden or grounds, as aforesaid, it shall not be necessary to prove the personal service of the injunction, but the service hereinbefore provided shall be deemed and held sufficient.

Preceding sections not applicable to certain performances.

Sec. 1,480. The provisions and requirements of sections fourteen hundred and seventy-two to fourteen hundred and seventy-nine of this act, inclusive, shall not be held to apply to any building, hall, room or rooms, in which only private theatricals, tableaus and other exhibitions for charitable and religious purposes are given, nor to the manager or managers of exhibitions given by amateurs for the benefit of any church, mission, parish or Sunday school, or for any other charitable or religious purpose, nor shall the same be held to apply to the masonic temple in New York, or the trustees of the masonic hall and asylum fund, so long as the revenues of said temple shall continue to be applied to the use of the masonic hall and asylum, or other charitable purpose, nor to the educational alliance, or to the directors or officers of said society as such with respect to any building which shall in whole or in part be owned or leased by said society, while so owned or leased, so long as the revenue thereof shall continue to be applied to the support of said society and to the religious, charitable, social, educational, or literary purposes of said society.

Exhibitions on Sundays prohibited.

Sec. 1,481. It shall not be lawful to exhibit, on the first day of the week, commonly called Sunday, to the public, in any building, garden, grounds, concert room or other room or place within the city of New York, any interlude, tragedy, comedy, opera, ballet, play, farce, negro minstrelsy, negro or other dancing, or any other entertainment of the stage, or any part or parts therein, or any equestrian, circus or dramatic performance, or any performance of jugglers, acrobats or rope dancing. Any person offending against the provisions of this section, and every person aiding in such exhibitions by advertisements or otherwise, and every owner or lessee of any building, part of a building, ground, garden, or concert room, or other room or place, who shall lease or let out the same for the purpose of any such exhibition or performance, or assent that the same be used for any such purpose, shall be guilty of a misdemeanor, and in addition to punishment therefor provided by law, shall be subject to a penalty of five hundred dollars which penalty the corporation counsel of said city is hereby authorized in the name of the city of New York to prosecute, sue for and recover; in addition to which every such exhibition or performance shall of itself forfeit, vacate and annul and render void and of no effect any license which shall have been previously obtained by any manager, proprietor, owner or lessee consenting to, causing or allowing, or letting any part of a building for the purpose of any such exhibition or performance.

Minors under fourteen unaccompanied by adult not to be admitted to theaters at night.

Sec. 1,482. It shall not be lawful for any owner, lessee, manager, agent or officer of any theater in the city of New York to admit to any theatrical exhibition held in the evening any minor under the age of fourteen years, unless such minor is accompanied by, and is in the care of some adult person. Any person violating the provisions of this section shall be guilty of a misdemeanor, and shall be liable to a fine of not less than $25, nor more than $100, or imprisonment for a term not less than ten nor more than ninety days for each offense. All moneys recovered under the provisions of this section, for fines, shall be paid over to the controller of said city, to be paid into the treasury of said city.

Prohibition of sale of spirituous liquors anp employment of female waiters.

Sec. 1,483. It shall not be lawful to sell or furnish any wine, beer, or strong or spirituous liquors, to any person in the auditorium or lobbies of any place of exhibition or performance mentioned in section one thousand four hundred and seventy-two of this act, or in any apartment connected therewith by any door, window, or other aperture, except that the police department may, in its discretion, and subject to such regulations and restrictions as it may determine, permit the same to be sold or furnished while concerts, consisting of vocal or instrumental music only, are being given in a place duly licensed by it as hereinbefore provided. Such permission shall only be operative so long as it shall be lawful under the laws of this state to sell or furnish wine, beer, or strong or spirituous liquors at such place, and may be revoked at any time by the police department. It shall not be lawful to employ or furnish or permit or assent to the employment or attendance of any female to wait on, or attend in any manner, or furnish refreshments to the audience or spectators or any of them, at any of the exhibitions or performances mentioned in said section, or at any other place of public amusement in the city of New York.

The provisions of this act shall not be construed to interfere with the right of any incorporated or other society, organized and maintained for the cultivation of vocal or instrumental music, to exercise and practice the same in good faith for themselves only, and not for the observation and entertainment of the public; nor shall the use or occupation by any such society for the purposes aforesaid of any hall or room connected with any place wherein by the laws of this state it is lawful to sell wine, beer, or strong or spirituous liquors be construed to make such place a place of public amusement within the provisions of this act.

Violation of preceding section annuls license.

Sec. 1,484. No license shall be granted for any exhibition or performance given in violation of the preceding section, and any and every exhibition or performance at which any of the provisions of the said section shall be violated, shall of itself vacate and annul and render void and of no effect any license which shall have been previously obtained by any manager, proprietor, owner or lessee consenting to, causing or allowing or letting any part of a building for the purpose of such exhibition and performance.

Violation of any provision of the two preceding sections a misdemeanor.

Sec. 1,485. Any person violating any of the provisions of the two preceding sections, or employing, or assenting to the employment or attendance of any person contrary to the provisions of said sections, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the penitentiary for a term not less than three months nor more than one year, or by a fine not less than $100 nor more than $500, or by both such fine and imprisonment.

Police, etc., to enter places of amusement and arrest offenders.

Sec. 1,486 It shall be the duty of the sheriff, deputy sheriff, constable and of every member of the police force to enter at any time said places of amusement, and to arrest and convey any person or persons violating any provision of the three preceding sections, forthwith, before any city magistrate or recorder having jurisdiction in said city, there to be dealt with according to law.

Doors and exits to be conspicuously numbered. Diagrams to be printed on programmes.

Sec. 1,487. The owner, lessee, manager, or other person or persons, having charge or control of any theater shall cause each and every door and means of exit to be used in case of fire or panic, to be conspicuously numbered, so as to be visible to the audience, by whom the same may be used, and shall have or cause to be printed in conspicuous type a plan or diagram and explanation showing each of said exits thereon, and referring to the numbers aforesaid, and the same shall be printed in conspicuous type, as aforesaid, on the programme or bill of the play. Any and all persons who shall violate any of the provisions of this section, or fail to comply therewith, or any requirement thereof, shall severally, for each and every violation and non-compliance, respectively forfeit and pay a penalty in the sum of $50; to be sued for and recovered in the same manner as violations of the building laws in the city of New York are now sued for and recovered pursuant to the provisions of this act.

TITLE 3.

BIRDS.

Killing or selling certain birds prohibited.

Sec. 1,493. No person shall kill, wound, trap, net, snare, catch with bird lime, or with any similar substance or drug, or in any other manner capture or sell, expose for sale, or transport during the months of April, May, June. July, August, September or October, in any year any bird of song, or any linnet, bluebird, yellow hammer, yellow bird, thrush, woodpecker, cat bird, pewee, swallow, martin, blue jay, oriole, kildee, snow bird, grass bird, grosbeak, phoebe bird, humming bird, blackbird, wren, excepting birds bred in a cage or imported from Europe or the southern United States. No person shall kill or expose for sale or have in his possession after the same has been killed, any robin, meadow lark or starling, between the first day of January and the fifteenth day of October, save only when such birds are killed on the premises of the persons killing and while they are destroying fruit. This section shall not apply to any person who shall kill any bird for the purpose of studying its habits or history, or having the same stuffed and set up as a specimen. Any person violating this section shall be deemed guilty of a misdemeanor, punishable by imprisonment in the county jail or penitentiary, of not less than five or more than thirty days, and shall also be liable to a penalty of fifty dollars, to be recovered with costs, by any person suing therefor in his own name. In all actions for the recovery of pen-

alties under this section one-half of the recovery shall belong to the plaintiff, and the remainder shall be paid to the chamberlain.

TITLE 4.

COMMERCIAL PAPER DURING EPIDEMIC.

Persons, etc., in infected district may have names, etc., registered by city clerk.

Sec. 1,499. Whenever the board of health shall, by public notice, designate any portion or district of the city of New York as being the seat of any infectious or contagious disease, and declare communication with such portion or district dangerous, or shall prohibit such communication, it shall be the duty of the city clerk during the continuance of such disease in such district to provide and keep in his office a book for the purpose of registering, in alphabetical order, the names, firms and places of business of any inhabitant of the city who shall desire such registry to be made.

Id. Must register place at which commercial paper to be presented.

Sec. 1,500. It shall be the duty of all persons and firms usually resident or doing business within such infected district to register in the book so provided by the said city clerk their names or firms, with the place or places out of such infected district, but within the city of New York to which they may have removed the transaction of their business, or to which they may desire any notices to be sent or served, or any notes, drafts or bills to be presented for acceptance or for payment. The sum of twenty-five cents may be claimed and received by the said clerk for every such registry; but the book in which the same shall be entered shall be at all times during office hours open to public examination free of all charges.

Commercial paper may be presented at place designated.

Sec. 1,501. During the continuance of any such disease in such infected district all drafts, notes and bills, which by law are required to be presented for acceptance or for payment, may be presented for such purpose at the place so designated in such registry, and all notices of non-acceptance and non-payment of any notes, draft or bill, or of protest, for such non-acceptance or non-payment, may be served by leaving the same at the place so designated.

On failure to register, commercial paper may be presented to city clerk.

Sec. 1,502. In case any person or firm usually resident or doing business within such infected district shall neglect to make and cause to be entered in the book so provided, the registry herein required, all notes, drafts, or bills which by law are required to be presented to such person or firm for acceptance or for payment, may be presented to the said city clerk during the continuance of such disease at any time during office hours, and demand of acceptance or payment thereof may be made of the said clerk, to the same purpose and with the same effect as if the same had been presented, and acceptance or payment demanded of such person or firm at their usual place of doing business.

On failure to register, notice of protest, etc., may be served by leaving at post office.

Sec. 1,503. In case of the omission to make the registry herein required, all notices of the non acceptance or non payment of any note, draft or bill, or of protest for such non acceptance or non payment, may be served on any person or firm usually resident or doing business within such infected district, by leaving the same at one of the post offices for the said city, which service shall be as valid and effectual as if the notices had been served personally on such person or one of such firm at his or their usual place of doing business.

When epidemic deemed to have subsided.

Sec. 1,504. Whenever proclamation shall be made by the board of health or other proper authority of the city, that an infectious or contagious disease in any such infected district has subsided, it shall be deemed to have subsided, for all purposes contemplated in this title.

TITLE 5.

PHARMACISTS AND DRUGGISTS.

Registered pharmacists only to conduct pharmacy, except, etc.

Sec. 1,510. It shall be unlawful for any person unless a registered pharmacist within the meaning of this title to open or conduct any pharmacy or store for retailing, dispensing or compounding medicines or poisons in the city of New York, as constituted by this act, except as hereinafter provided; provided that the widow or legal representative of a deceased person who was a registered pharmacist within the meaning of this title may continue the business of such deceased pharmacist, provided that the actual retailing, dispensing or compounding of medicines or poisons be only by a person who is a registered pharmacist within the meaning of this title.

Id. Qualifications of registered pharmacists.

Sec. 1,511. Any person, in order to be registered, shall be either a graduate in pharmacy or a licentiate in pharmacy or a graduate having a diploma from some legally constituted medical college or society. But a license as a pharmacist granted any person after the examination by any board of pharmacy legally created under the laws of this state shall entitle such person to a license or certificate of registration from the board of pharmacy created by this title, upon presenting to said board his license and complying with the formal requirements of the laws. Any person who, at the time this act takes effect, shall be entitled by law to open or conduct any pharmacy or store for retailing, dispensing or compounding medicines or poisons in any part of the territory included in the city of New York, as constituted by this act, shall be entitled hereafter to open or conduct any such pharmacy or store in said city, and to be registered by the board of pharmacy created by this title.

Graduates and licentiates defined.

Sec. 1,512. Graduates of pharmacy within the meaning of this title shall be those persons who have had at least four years' experience in stores where prescriptions of medical practitioners have been compounded, and who have obtained a diploma from any college of pharmacy within the United States, or from some authorized foreign institution or examining board; and licentiates in pharmacy shall be those persons who have had at least four years' experience in stores where prescriptions of medical practitioners are compounded and who shall have passed an examination either before the board for the examination of and licensing druggists and prescription clerks in the city of New York, as heretofore existing, established by an act passed March 28, 1871, or before the board of pharmacy in the city of New York, as heretofore existing, or before the board of pharmacy of the county of Kings, or before the board of pharmacy created by this title, for the city of New York, as constituted by this act, or such foreign pharmacists as shall present satisfactory credentials or certificates of their competency and qualifications to the said last mentioned board of pharmacy. Junior assistants or apprentices in pharmacy shall not be permitted to prepare physicians' prescriptions until they have become graduates or licentiates in pharmacy.

Board of pharmacy: election, duties.

Sec. 1,513. The members of the college of pharmacy of the city of New York, shall, on the first Monday of January, 1898, and on the same day every third year thereafter, at a special meeting held for that purpose, elect five competent pharmacists, three of whom shall be graduates of some legally constituted medical college and the remaining two graduates of some legally constituted college of pharmacy of the city of New York, as constituted by this act, and who shall form and be known as the board of pharmacy. The members of this board shall, within thirty days after their election as aforesaid, individually take and subscribe before the clerk of the city of New York, an oath faithfully and impartially to discharge the duties prescribed for them by this title. They shall hold office for the term of three years and until their successors are duly elected and have qualified; and in case of any vacancy, the trustees of the College of Pharmacy shall fill the same from two or more nominees elected at a special meeting of the College of Pharmacy. The said board shall organize for the transaction of business by electing from their own number, for the whole term, a president and secretary. The board shall meet at least once every three months and three members shall constitute a quorum. The duties of the said board shall be to transact all business pertaining to the legal regulation of the practice of pharmacy in the city of New York, and to examine and register pharmacists. Any pharmacist applying for examination shall pay to the secretary a fee of $5, and should he pass such examination satisfactorily he shall be furnished with a certificate as to his competency and qualification, signed by the said board of pharmacy.

Books for registration of pharmacists, etc.

Sec. 1,514. It shall be the duty of the secretary to keep a book of registration at some convenient place, of which due notice shall be given through the public press, in which book shall be entered, under the supervision of the said board, the names and places of business of all persons coming under the provisions of this title. It shall be the duty of all such persons to appear before the said board of pharmacy, and the fee for the registration of pharmacists shall not exceed two dollars, and for assistants shall not exceed one dollar. The secretary shall give receipts for all moneys received by him, and pay over the same to the treasurer of the College of Pharmacy aforesaid, taking his receipt therefor, which moneys shall be used for the purpose of defraying the expenses of the board of pharmacy, and any surplus shall be for the benefit of the College of Pharmacy. The salary of the secretary shall be fixed by the board, and shall be paid out of the registration fees.

Pharmacists responsible for quality of drugs, etc., sold; patent medicines, adulteration, etc.

Sec. 1,515. Every registered pharmacist shall be held responsible for the quality of

all drugs, chemicals and medicines he may sell or dispense, with the exception of those sold in the original packages of the manufacturer, and also those known as "patent medicines," and should he knowingly, intentionally and fraudulently adulterate, or cause to be adulterated, such drugs, chemicals or medical preparations, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, be liable to a penalty not exceeding one hundred dollars and in addition thereto, his name shall be stricken from the register.

Poisons; retailing of.

Sec. 1,516. It shall be unlawful for any person to retail any poisons enumerated in schedules A and B, as follows, to wit:

SCHEDULE A.

Arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia and all other poisonous vegetable alkaloids and their salts, essential oil of bitter almonds, opium and its preparations, except paregoric and other preparations of opium containing less than two grains to the ounce.

SCHEDULE B.

Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cottonroot, cantharides, creosote, digitalis and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid and oxalic acid, without distinctly labeling the bottle, box, vessel or paper in which the said poison is contained, and also the outside wrapper or cover with the name of the article, the word "Poison," and the name and place of the seller; nor shall it be lawful for any person to sell or deliver any poisons enumerated in schedules A and B, unless upon due inquiry it be found that the purchaser is aware of its poisonous character, and represents that it is to be used for a legitimate purpose. Nor shall it be lawful for any registered pharmacist to sell any poisons included in schedule A, without, before delivering the same to the purchaser, causing an entry to be made in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and quality of the poison sold, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser; such book to be always open for inspection by the proper authorities, and to be preserved for reference for at least five years. The provisions of this section shall not apply to the dispensing of poisons, in not unusual quantities or doses, upon the prescriptions of practitioners of medicine.

Application of preceding sections to practitioners of medicine and wholesale dealers.

Sec. 1,517. Nothing contained in the foregoing sections of this title shall apply to or interfere with the business of any practitioner of medicine who does not keep open shop for the retailing of mdicines and poisons, nor with the business of wholesale dealers, but the preceding section, and the penalties for its violation, shall apply to such persons.

Fraudulent registration, permitting unlicensed person to compound medicines.

Sec. 1,518. Any person who shall attempt to procure registration for himself, or for any other person, under this title, by making or causing to be made any false representation, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be liable to a penalty not exceeding five hundred dollars. Any registered pharmacist who shall permit the compounding and dispensing of prescriptions of medical practitioners in his store or place of business, by any person or persons not registered, or any person not registered who shall keep open shop for the retailing or dispensing of medicines and poisons, or who shall fraudulently represent himself to be registered, or any registered pharmacist or dealer in medicines who shall fail to comply with the regulations and provisions of this title, in relation to the retailing and dispensing of poisons, shall, for every such offense, be deemed guilty of a misdemeanor, and upon conviction thereof, be liable to a penalty of fifty dollars.

Penalties to be paid to college of pharmacy.

Sec. 1,519. Each and every penalty recovered under this title shall be paid to the trustees of the College of Pharmacy, and shall form and be known as the library fund of said College of Pharmacy, and shall be expended for the purchase of books for the library of said college.

Boards of pharmacy abolished.

Sec. 1,520. The board of pharmacy of the county of Kings and the board of pharmacy of the city of New York as heretofore existing, are both hereby abolished.

TITLE 6.

A BOARD OF CITY RECORD.

City record, board of; publication and contents; newspapers to be designated in which corporate notices to be advertised.

Sec. 1,526. There shall be published daily (Sundays and legal holidays excepted), under a contract to be made as hereinafter provided, a paper to be known as the City Record. And said City Record and the newspapers now by law designated as corporation newspapers in the present city of Brooklyn, shall be the only papers to be included within the term corporation newspapers as the same is used anywhere in this act. The mayor, corporation counsl and controller shall constitute the board of City Record. Said board by a majority vote shall appoint a proper person, together with such assistants as may be required, to supervise the preparation and publication of the same, and they shall also fix the rates of compensation of said supervisor and his assistants. All the expenses connected with its publication and distribution, except the salary of the person appointed to supervise the same, and the salaries of his assistants, shall be covered by a contract for printing, to be made in the same manner as other contracts. The board of estimate and apportionment shall provide for all the necessary expenses of conducting the said City Record. There shall be inserted in said City Record nothing aside from such official matters as are expressly authorized. The contract for the publication of the City Record shall provide for furnishing, free of charge, to the city of New York, not more than two thousand copies thereof, also for a gratuitous distribution to every newspaper regularly printed in the city of New York, when it shall apply for the same, of two copies and to every public library or pubilc institution in said city which shall apply for the same, of one copy. Copies of the same shall be sold by the supervisor at a price to be fixed by the officers making the contract, and the proceeds thereof shall be paid over to the city. All advertising required to be done for the city, except as in this act, otherwise specially provided, and all notices required by law or ordinance to be published in corporation papers, shall be inserted, at the public expense, only in the City Record, and a publication therein shall be a sufficient compliance with any law or ordinance requiring publication of such matters or notices, but there may be inserted in two morning and two evening and two weekly papers published in the English language and in one newspaper published in the German language, all in said city, to be designated, at any time, by said board of City Record, brief advertisements calling attention to any contracts intended to be awarded or bonds to be sold and referring for full information to said City Record; said designation of such newspapers to continue in effect until another or different designation shall be made by said board. Where such notices and advertisements respect matters occurring within the borough of Brooklyn, they shall also be published in such newspapers as are now by law designated as corporation newspapers in the city of Brooklyn, the rates of payment therefor not to exceed the compensation now paid to said newspapers for like advertisements in the city of Brooklyn or county of Kings. In case, however, of the sale of bonds or stocks of said city or of any real estate belonging to the city, such advertisements may be also inserted in such other newspapers published in said city as said board may determine in the case of each sale. But nothing herein contained shall prevent the publication elsewhere of any advertisement required by law; provided, however, that no such publication shall be made unless the same is authorized by a concurrent vote of the members of said board. No money shall be paid from the city treasury and no action shall be maintained or judgment obtained against the city of New York, as constituted by this act, for any advertising done after April thirtieth, eighteen hundred and seventy-three, except such as is herein authorized or such as at the time this act takes effect is a lawful charge against a municipal or public corporation, or part thereof, hereby consolidated with the mayor, aldermen and commonalty of the city of New York. The copies of the City Record furnished to the city shall be distributed to the several departments and officers, and to such persons and in such manner as the board of City Record shall direct. The controller shall cause a continuous series of the City Record to be bound, as completed quarterly, and to be deposited with his certificate thereon, in the office of the register of deeds of the county of New York, in the county clerk's office of said county and in the office of the city clerk, and copies of the contents of any part of the same, certified by such register, county clerk, or city clerk, shall be received n judicial proceedings as prima facie evidence of the truth of the contents thereof.

Supervisor of city record to arrange lists or registered voters.

Sec. 1,527. It shall be the duty of the supervisor of the City Record to cause the lists of registered voters, made and delivered by the chairman of the boards of inspectors of election to the captains of police, and by them delivered to him, to be arranged by assembly districts and by election districts of assembly districts, commencing with the first, and in such manner that the names of all registered voters residing at any given number of any street shall appear together, and those of each street in each election district shall appear arranged by house numbers, in consecutive order, each street separately. And as soon as the entire registry of voters shall be completed, and the copies thereof

made and delivered, the said supervisor shall forthwith cause the same to be printed and published in the City Record and in the form and manner herein prescribed; and such publication shall be made within one hundred and eight hours after the close of each annual registration. The registry of each assembly district shall be printed separately as a supplement to the City Record, and each supplement containing the registry of one assembly district shall be sold separately to persons wishing to purchase the same at not less than five cents per copy. All money received therefor shall be paid into the city treasury to the credit of the general fund.

Printing and stationery to be supplied by contract. City record to print certain matters.

Sec. 1,528. All printing for said city, including the printing of the City Record, shall be executed and all stationery shall be supplied, under contracts, to be entered into by the said board of City Record. All proposals for printing and stationery shall be based upon specifications to be filed in the controller's office, which shall set forth with accuracy the number of every description of printed blanks; also each description of stationery or blank books in ordinary use in the municipal assembly and the respective departments, and likely to be required during the year for which such contract is to be given; and the bids shall be given for such number of each printed description of blanks or of each article of stationery (including under the head of stationery, letter or writing paper, or envelopes, with printed headings or indorsements) as are specified, and for such additional number as may be required, giving the price for blanks of every description, and the price of all other printing "per thousand ems," or for "rule and figure work"; separate contracts shall be made with the lowest bidder for any one description of printing, or any article of stationery involving an expense of more than five hundred dollars. Ten per cent. of the amount becoming due, from time to time, shall be withheld by the controller until the completion of the contract; and in case the contractor shall fail to fulfill the same to the satisfaction of said board of City Record, then said board may declare said contract to be annulled, and said board shall immediately give notice for other bids for such printing during the remainder of the term of contract. No judgment shall be recovered against the city of New York as constituted by this act, for printing or stationery done or furnished after April thirtieth, eighteen hundred and seventy-three, ostensibly for the city of New York as heretofore known and bounded, unless done or furnished under a contract, where, under the provisions of chapter three hundred and thirty-five of the laws of eighteen hundred and seventy-three, or of the laws in force at the time this act takes effect or of this act, a contract was or is necessary, or under a valid contract, or unless upon evidence of a contract made as provided in this section. Separate contracts may be made at any time for engraving, lithographing, wood cuts, maps, or other picture work, as the same may be required; but nothing herein contained shall be construed to require a separate contract for each engraving, lithograph or wood cut or map, unless the board of City Record shall deem the same advisable for the interest of the city. No more than two thousand copies of any message of the mayor, or report of any head of a department, and no more than one thousand copies of any report of a committee of either branch of the municipal assembly shall be printed apart from the City Record.

There shall be published in the City Record, within the month of January in each year, a list of all subordinates employed in any department (except laborers), with their salaries and residences by street numbers, and all changes in such subordinates or salaries shall be so published within one week after they are made. It shall be the duty of all heads of departments to furnish to the person appointed to supervise the publication of the City Record, everything required to be inserted therein. The said person shall have the power to make requisitions in writing upon the heads of departments to furnish the information necessary to make up such list according to rules prescribed by him and approved by the board of City Record; and such information must be supplied by the department within ten days after such requisition. He shall have power to require such information in the same manner, every three months and all other information in the control of said heads of departments, necessary to perform his duties under this section. He shall include in his list the number of laborers, designating the department in which they are employed, and, if practicable, the numbers employed in the prosecution of specific work, and the amounts paid to them. He shall also cause to be printed in each issue of said City Record a separate statement of the hours during which all public offices in the city are open for business, and at which each court regularly opens and adjourns, as well as of the places where such offices are kept and such courts are held. The detailed canvass of votes, at every election, shall be published in the City Record. A list of the registered plumbers once in each year. The mayor may order the insertion of any official matter or report in the City Record. Nothing herein contained shall apply to the printing or supplies of stationery for the city of New York as constituted by this act, whereby the concurrent vote of the mayor, counsel to the corporation, and controller it shall be decided to have such printing done or such stationery furnished without contract let after advertisements for bids or proposals, but in such cases such printing shall be done and such stationery procured in the manner and on such terms and conditions as the said officers shall deem to be for the best interests of the city.

TITLE 7.

GENERAL PROVISIONS.

Officers. Not to be privately interested in contracts.

Sec. 1,533. No member of the municipal assembly, head of department, chief of bureau, deputy thereof or clerk therein, or other officer of the corporation, shall be or become, directly or indirectly, interested in or in the performance of any contract, work or business, or the sale of any article, the expense, price or consideration of which is payable from the city treasury, or by any assessment levied by any act or ordinance of the municipal assembly; nor in the purchase or lease of any real estate or other property belonging to or taken by the corporation, or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of the said corporation. If any person in this section mentioned shall, during the time for which he was elected or appointed, knowingly acquire an interest in any contract or work with the city, or any department or officer thereof, unless the same shall be devolved upon him by law, he shall, on conviction thereof, forfeit his office and be punished for a misdemeanor. All such contracts in which any such person is or becomes interested shall, at the option of the controller, be forfeited and void. No person in this section named shall give, or promise to give, any portion of his compensation, or any money or valuable thing, to any officer of the city, or to any other person, in consideration of his having been or being nominated, appointed, elected or employed as such officer, agent, clerk or employe, under the penalty of forfeiting his office and being forever disqualified from being elected, appointed or employed in the service of the city, and shall, on conviction, be punished for a misdemeanor.

Id. May be summarily examined.

Sec. 1,534. Any member of the municipal assembly, commissioner, head of department, chief of bureau, deputy thereof or clerk therein, or other officer of the corporation or person, may, if a judge shall so order, be summarily examined upon an order to be made on application based on an affidavit of the mayor or of the controller, or any five members of the municipal assembly, or any commissioner of accounts, or of any five citizens who are taxpayers, requiring such examination, and signed by any justice of the supreme court in the first or second judicial departments directing such examination, to be publicly made at the chambers of said court in either of said judicial departments, or at the office of said department, on a day and hour to be named, not less, however, than forty-eight hours after personal service of said order. Such examination shall be confined to an inquiry into any alleged wrongful diversion or misapplication of any moneys or fund, or any violation of the provisions of law, or any want of mechanical qualifications of any inspectorship of public work, or any neglect of duty in acting as such inspector, or any delinquency charged in said affidavit touching the office or the discharge or neglect of duty, of which it is alleged in the application for said order that such member of the municipal assembly, head of department, or other aforementioned officer or persons, has knowledge or information. Such member of the municipal assembly, commissioner, head of department, clerk or other aforesaid officer or person shall answer such pertinent questions relative thereto, and produce such books and papers in his custody or under his control, as the justice shall direct, and the examination may be continued from time to time, as such justice may order, but the answer of the party charged shall not be used against him in any criminal proceeding; provided, however, that for all false answers on material points he shall be subject to the pains and penalties of the crime of perjury. The proceedings may be continued before any other justice in said judicial department, and other witnesses, as well as the parties making such application, may, in the discretion of said justice, be compelled to attend and be examined touching such alleged delinquencies. Such justice may punish any refusal to attend such examination or to answer any questions pursuant to his order, as for a contempt of court, and shall have as full power and authority to enforce obedience to the order or directions of himself or any other justice, as any justice of the supreme court may now have, or shall possess, to enforce obedience or to punish contempt in any case or matter whatever, and shall impose costs upon those promoting such an examination, not exceeding $250, if he thinks there was no probable cause for making the application hereinbefore provided for, the said costs to be paid to the officer or person examined, and for which the

said officer or person may have judgment and an execution. The examination hereinbefore provided for shall be reduced to writing, and be filed in the office of the county clerk of such county within the first or second judicial departments as the judge making the order for the examination shall direct at the time of making such order, and the examination so reduced to writing and filed shall be at all reasonable times accessible to the public, and notice of the same shall be given to the department in which said officer is employed.

Barber shops may be open on Sunday.

Sec. 1,535. The provisions of an act to regulate barbering on Sunday, being chapter 823 of the laws of 1895, permitting barber shops or other place where a barber is engaged in shaving, hair cutting or other work of a barber to be kept open, and the work of a barber to be performed therein until 1 o'clock of the afternoon of the first day of the week in the city of New York, as heretofore known and bounded shall be applicable to and be in full force and effect in all of the territory of the city of New York, as constituted by this act.

Retention of office by clerks in public employ in territory consolidated.

Sec. 1,536. All the clerical and other subordinate forces, not subject to removal without cause, in the public employ in any part of the city of New York, as constituted by this act, at the time when this act takes effect, shall continue to hold their respective positions without prejudice or advantage, except that nothing in this section contained shall operate to keep in the service of the city of New York, as constituted by this act, any clerk or other subordinate whose position is vacated by reason of the passage of this act, and except that the clerks and subordinates of departments that are abolished or reconstructed by this act, under the same or under other names shall continue in the service of the said city under the jurisdiction of the appropriate department subject, nevertheless, to removal in accordance with the provisions of this act for cause, or to abolish unnecessary positions. The mayor of the city of New York, the mayor of the city of Brooklyn, the mayor of Long Island, the chairman of the board of supervisors of the county of Richmond and the county judge of Queens county, shall meet in the mayor's office in the city of New York on the first day of December, 1897, and as often thereafter during the month of December as may be necessary, and prepare and adopt a detailed plan for the transfer to, and the partition between the several public departments, bureaus and offices created or provided for by this act, of all the public property appertaining to the administration of said departments, bureaus and offices in the several municipal and public corporations hereby consolidated, and the books, records, vouchers and other papers of said municipal and public corporations, and to this end the said mayors and chairman and county judge, or any one duly authorized by them, shall have full and free access to all the public papers, documents and records in each of said municipal and public corporations. The said plan shall also provide for the apportionment between the several public departments, bureaus and offices, and the assignment to service in said public departments, bureaus and offices, respectively, so far as practicable, of all the subordinates and employes in every branch of the public service in each of the several municipal and public corporations hereby consolidated, in such manner that each person shall be assigned, as nearly as may be, without prejudice or advantage to perform the same service and in the same part of the city, and to hold the same relative rank or position in the city constituted by this act as he performed and held at the time said plan of apportionment and assignment is determined upon. Said plan shall be such as to receive the approval of the mayor of New York as to persons in the service of the city of New York, of the mayor of Brooklyn as to persons in the service of the city of Brooklyn, of the mayor of Long Island City as to persons in the service of Long Island City, of the chairman of the board of supervisors of Richmond county as to persons in the service of the municipal and public corporations of Richmond county, and of the county judge of Queens county as to persons in the service of the towns of Newtown, Flushing, Jamaica and that part of the town of Hempstead by this act included within the city of New York. The said plan when determined upon shall be signed by said mayors and said chairman and said county judge, or a majority of them, and shall be published in the City Record for such length of time as they may direct. Said plan and the apportionment and assignment herein provided for shall take effect on the first day of January, 1898, and on and after said date the persons named therein shall be deemed to hold and shall hold the respective positions to which they may be assigned in said plan, until removed, as herein provided, and their assignment to service shall not be deemed or construed to be a new appointment or reappointment, but shall be deemed to be, and shall be, a continuation of the appointment and employment theretofore held by them. The head of every department, and every other officer by this act given power to appoint, remove and fix and regulate the salaries of his subordinates, appointees and employes, shall have power upon assuming office, or at any time thereafter, to remove any person assigned to service under him by said plan, and to fix and regulate, within the limits of his appropriation and subject to the restrictions, if any, hereinbefore prescribed, the salaries and compensation of his said subordinates, appointees and employes. At any time within one year after the first day of January, 1898, any subordinate or employe in any public department, bureau or office of the city hereby constituted may be transferred to any other public department, bureau or office of said city, provided such transfer be consented to by the mayor and by the head of the department, bureau or office from which such subordinate or employe is so transferred, and the head of the department, bureau or office to which such subordinate or employe is so transferred. Nothing in this section contained shall apply to the fire department or the police department, nor to the New York and Brooklyn bridge, nor to the public schools and the department of education.

The incumbents of positions abolished or made unnecessary by this act shall be preferred for appointment to positions demanding their service. For this purpose the civil service commissioners are directed, as far as practicable, to place the names of such persons on the proper eligible lists, and to give them on said lists the same preference as veterans.

The civil service regulations in force at the time this act takes effect in the various parts of the city of New York, as constituted by this act, and all eligible lists created thereunder in said parts of the city respectively, shall continue in full force and effect until new regulations shall have been adopted in accordance with the provisions of this act and new eligible lists made in accordance with such regulations.

Books, papers, etc., where filed.

Sec. 1,537. All public books, papers and documents of the mayor, aldermen and commonalty of the city of New York, and of the city of Brooklyn, and of Long Island City and of any board, body or officer of, or in the territory of the county of Richmond, so far as such public books, papers and documents relate to the governmental functions by this act, devolved upon the municipal corporation created by this act, and of any board, body or officer of or in that part of the county of Queens consolidated by this act into a municipal corporation, so far as such public books, papers and documents relate to the governmental functions by this act devolved upon the municipal corporation created by this act, and also the public books, papers and documents of any officer, board or body of any district, town or village or of any office within the said territory that relate to the governmental functions by this act devolved upon the city of New York created by this act, shall be transferred to and filed with the appropriate departments or officers of the city of New York, provided however that this section shall not be deemed to apply to any public books, papers or documents of any register, sheriff, district attorney, coroner or county clerk in said territory or in any part thereof. And it shall be the duty of all persons having charge of such books, papers and documents to deliver the same to and file the same, with the appropriate officer or department as in this section provided.

Territorial operation of contracts, grants and franchises not extended.

Sec. 1,538. This act shall not extend the territorial operation of any rights, contracts or franchises heretofore granted or made by the corporation known as the mayor, aldermen and commonalty of the city of New York, or by any of the municipal and public corporations which by this act are united and consolidated therewith, including the counties of Kings and Richmond, and the same shall be restricted to the limits respectively to which they would have been confined if this act had not been passed; nor shall this act in any way validate or invalidate or in any manner affect such grants, but they shall have the same legal validity, force, effect and operation, and no other or greater than if this act had not been passed.

Price of gas in Richmond and Queens counties.

Sec. 1,539. The price of illuminating gas in the county of Richmond and in that part of the county of Queens included within the city of New York, as hereby constituted, shall not be affected by this act.

Platting of lands and dedication of streets and public places.

Sec. 1,540. No map of the subdivision of lands or the platting thereof into streets or avenues and blocks within the limits of the city of New York shall hereafter be registered or become effectual and binding as a dedication of the streets, avenues or public places on such map or plat until such map or plat has been submitted by the owner to and approved by the board of public improvements, which in acting thereon shall examine and determine whether the streets and avenues are of adequate and suitable width and laid out with due reference to connecting streets and avenues. Upon such approval the title of the owner or owners of the land to all streets, avenues and public places designated

on the map or plat, shall immediately vest in fee clear of all incumbrances in the city of New York in trust for the designated public uses. Such map or a copy thereof shall remain of record in the office of the board of public improvements, and a copy thereof, with the approval of the said board indorsed thereon, shall be filed and recorded in the office of the register of deeds or county clerk of the county in which the land is situated and indexed therein as deeds are now required by law to be indexed. The municipal assembly, upon the recommendation of the board of public improvements may from time to time pass appropriate ordinances not inconsistent with law and this act to carry the provisions of this section into effect and regulate proceedings thereunder.

Majority of boards of departments. Quorum. Powers.

Sec. 1,541. A majority of the members of a board in any department of the city government, and also of the board for the revision of assessments, shall constitute a quorum to fully perform and discharge any act or duty authorized, possessed by or imposed upon any department or any board aforesaid, and with the same legal effect as if every member of any such board aforesaid had been present, except as herein otherwise specially provided. Each board may, except as herein otherwise provided, choose, in its own pleasure, one of its members who shall be its president, and one who shall be its treasurer, and may appoint a chief clerk or secreatry. No expense shall be incurred by any of the departments, boards or officers thereof, unless an appropriation shall have been previously made covering such expense, nor any expense in excess of the sum appropriated in accordance with law.

Expenses not to exceed appropriation.

Sec. 1,542. It shall be the duty of the heads of all departments of said city, and of all boards and officers charged with the duty of expending or incurring obligations payable out of the moneys raised by tax in said city, so to regulate such expenditures for any purpose or object, that the same shall not in any one year exceed the amount appropriated by the board of estimate and apportionment for such purpose or object; and no charge, claim or liability shall exist or arise against said city for any sum in excess of the amount appropriated for the several purposes.

Heads of departments; control over subordinates. Removal.

Sec. 1,543. The heads of all departments (except as otherwise specially provided) shall have power to appoint and remove all chiefs of bureaus (except the chamberlain) as also all clerks, officers, employes and subordinates in their respective departments, except as herein otherwise specially provided, without reference to the tenure of office of any existing appointee. But no regular clerk or head of a bureau shall be removed until he has been allowed an opportunity of making an explanation; and in every case of a removal, the true grounds thereof shall be forthwith entered upon the records of the department or board. In case of removal, a statement showing the reason therefor shall be filed in the department. The number and duties of all officers and clerks, employes and subordinates in every department, except as otherwise herein specially provided, with their respective salaries, whether now fixed by special law or otherwise, shall be such as the heads of the respective departments shall designate and approve; but subject, also, to the revision of the board of estimate and apportionment; provided, however, that the aggregate expense thereof shall not exceed the total amount duly appropriated to the respective departments for such purposes. Any head of department may, with the consent of the board of estimate and apportionment, consolidate any two or more bureaus established by law, and may change the duties of any bureau; and it shall be the duty of the head of the finance department to bring together all officers and bureaus authorized to receive money for taxes, assessments or arrears, in such manner that the payment of the same can be made, as nearly as practicable, at one time and place and in one office.

Id. To render reports. Publication.

Sec. 1,544. The said departments and all commissioners appointed by the mayor, pursuant to the provisions of this act, and not constituting heads of departments, shall once in three months, and at such other times as the mayor may direct, make to him, in such form and under such rules as he may prescribe, reports of the operations and action of the same and each of them, which reports shall be published in the City Record. The said departments and commissioners shall always, when required by the mayor, furnish to to him such information as he may demand, within such reasonable time as he may direct.

Id. To furnish copies of papers on demand.

Sec. 1,545. The heads of all departments, except the police and law departments and the chiefs of each and every bureau of said departments, or any of them, except the police and law departments, shall, with reasonable promptness, furnish to any taxpayer desiring the same, a true and certified copy of any book, account, or paper kept by such department, bureau or officer or such part thereof as may be demanded, upon payment in advance of five cents for every hundred words thereof by the person demanding the same. All books, accounts and papers in any department or bureau thereof, except the police and law departments, shall at all times be open to the inspection of any taxpayer, subject to any reasonable rules and regulations in regard to the time and manner of such inspection as such department, bureau or officer may make in regard to the same, in order to secure the safety of such books, accounts and papers, and the proper use of them by the department, bureau or officer; in case such inspection shall be refused, such taxpayer, on his sworn petition, describing the particular book, account or paper that he desires to inspect, may, upon notice of not less than one day to such department, bureau, or officer, apply to any justice of the supreme court for an order that he be allowed to make such inspection as such justice shall by his order authorize, and such order shall specify the time and manner of such inspection.

Records to be kept and abstracts published.

Sec. 1,546. In every department or board there shall be kept a record of all its transactions, which shall be accessible to the public and once a week a brief abstract, omitting formal language, shall be made of all transactions, and of all contracts awarded and entered into for work and material of every description, which abstract shall contain the name or names, and residences by street and number of the party or parties to the contract and of their sureties, if any. A copy of such abstract shall be promptly transmitted to the person designated to prepare the City Record and shall be published therein. Notice of all appointments and removals from office, and all changes of salaries, shall in like manner within one week after they are made, be transmitted to and published in the City Record.

Certificate of appointments.

Sec. 1,547. Every person who shall be appointed or elected to any office under the said city shall receive a certificate of appointment, designating the term for which such person has been appointed or elected.

Official oath.

Sec. 1,548. Every person elected or appointed to any office under the city government shall, within five days after notice of such election or appointment take and subscribe, before the mayor or any judge of a court of record, an oath or affirmation faithfully to perform the duties of his office, which oath or affirmation shall be filed in the office of the city clerk.

Officer not to hold any other civil office.

Sec. 1,549. Any person holding office, whether by election or appointment, who shall, during his term of office, accept, hold or retain any other civil office of honor, trust or emolument under the government of the United States (except commissioners for the taking of bail or register of any court), or of the state (except the office of notary public or commissioner of deeds or officer of the national guard), or who shall hold or accept any other office connected with the government of the city of New York, or who shall accept a seat in the legislature, shall be deemed thereby to have vacated every office held by him under the city government. No person shall hold two city or county offices, except as expressly provided in this act, nor shall any officer under the city government hold or retain an office under the county government, except the office of suprvisor or when he holds such office ex-officio, by virtue of an act of the legislature, and in such case shall draw no salary for such ex-officio office.

Officers; when may receive and retain fees.

Sec. 1,550. No officer of the city government, except the city marshals, shall have or receive to his own use any fees, perquisites or commissions or any percentage; but every such officer shall be paid by a fixed salary, and all fees, percentages, and commissions received by any such officer shall be the property of the city. And every officer who shall receive any fees, perquisites, commissions, percentages, or other money which should be paid over to the city, shall, before he shall be entitled to receive any salary, make under oath a detailed return to the controller showing the amount of all such fees, commissions, percentages, perquisites and moneys received by him since the last preceding report, the person from whom received and the reason for its payment, and shall produce the receipt of the chamberlain, showing the payment to him, by said officer, of the aggregate amount thereof. All sums received as above, or for licenses or permits, except as in this act otherwise expressly provided, shall be paid over weekly, without deduction by the officers or department receiving them, to the chamberlain, and a detailed return under oath shall at any time be made in such form as the controller shall prescribe, stating when and from whom, and for what use such moneys were received. No city officer who is paid a salary for his services from the city treasury shall receive to or for his own use any fees, costs, allowances, perquisites of office, commissions, percentage, or moneys paid to him in his official capacity; but all fees, costs, allowances, perquisites, commissions, percentages and moneys so paid or received by any such officer or person, shall

be the property of the city and shall be paid by him into the city treasury; and every such officer or person who shall receive any fees, perquisites, commissions, percentages, or other moneys which belong to the city, and should be so paid into the treasury, shall, before he shall be entitled to receive or to be paid his salary, make under oath a detailed statement and return to the controller in such form as he may prescribe, showing the amount of all such moneys received by him since the last preceding statement and returns, and shall produce a receipt showing the payment of such sum into the treasury. The controller may require any such person or officer to make such statement and return to him, if it be not made as herein provided, and may examine any such officer of person under oath touching the amount of any fees, costs, allowances, perquisites, commissions, percentages or moneys paid to or received by him in his official capacity. But nothing herein contained shall be construed as prohibiting the receipt of fees by any public officer on account of the collection of the inheritance tax as now provided by law, or as repealing the provisions of chapter 299 of the laws of 1892.

Id. Defrauding.

Sec. 1,551. Any officer of the city government, or person employed in its service, who shall willfully violate or evade any of the provisions of law, or commit any fraud upon the city, or convert any of the public property to his own use, or knowingly permit any other person so to convert it, or by gross or culpable neglect of duty allow the same to be lost to the city, shall be deemed guilty of a misdemeanor, and, in addition to the penalties imposed by law, and on conviction, shall forfeit his office, and be excluded forever after from receiving or holding any office under the city government; and any person who shall willfully swear falsely in any oath or affirmation required by this chapter shall be guilty of perjury.

Money not to be paid to sectarian schools. Public property; how disposed of.

Sec. 1,552. No money belonging to the city, or city and county of New York, raised by taxation upon the property of the citizens thereof, shall be appropriated in aid of any religious or denominational school, neither shall any property, real or personal, belonging to said city, or said city and county, be disposed of to any such school, except upon the sale thereof at public auction, after the same has been duly advertised. at which sale such school shall be the highest bidder, and upon payment of the sum so bid into the city treasury; neither shall any property belonging to the city, or city and county, be leased to any school under the control of any religious or denominational institution, except upon such terms as city property may be leased to private parties after the same has been duly advertised.

Property to be sold at auction.

Sec. 1,553. All property sold other than land under water shall be sold at auction, after previous public notice, under the superintendence of the appropriate head of department. The proceeds of all sales made under and by virtue of this act shall, except as therein otherwise specially provided, be by the officer receiving the same immediately deposited with the chamberlain, and the account of sales, verified by the officer making the sales, shall be immediately filed in the office of the controller.

Patented articles; how supplied.

Sec 1,554. Except for repairs no patented pavement shall be laid and no patented article shall be advertised for, contracted for or purchased, except under such circumstances that there can be a fair and reasonable opportunity for competition, the conditions to secure which shall be prescribed by the board of estimate and apportionment.

Special provision as to papers formerly filed in offices of town clerks.

Sec. 1,555. Except as otherwise provided by this act, all papers now required by law to be filed and recorded in the town clerk's office in any of the towns by this act united and consolidated into the city of New York, shall after this act takes effect, be filed and recorded in the office of the clerk of the county in which such town is situated, and all such papers filed and recorded in any town clerk's office of such towns, and the records thereof shall, immediately after this act takes effect, be deposited in such county clerk's office by the town clerks of such towns, and shall remain of record therein.

Code of ordinances; when to be prima facie evidence.

Sec. 1,556. A code or other volume containing the ordinances and bylaws of the city published by authority of the municipal assembly shall be prima facie evidence in all courts of justice of the authenticity of such ordinances and bylaws.

Responsible guarantee company may act as surety.

Sec. 1,557. Wherever this act provides for the giving of an official bond with surety or sureties, such surety or sureties may consist of a responsible guaranty company, provided the same shall be satisfactory to, and be approved by the officer or officers, or body whose duty it is to approve such bond or sureties.

Tenure of office.

Sec. 1,558. All officers elected or appointed under this act shall, unless otherwise expressly provided and unless sooner removed, hold their respective offices until their successors are respectively elected or appointed and have qualified.

Publication to be made in City Record, unless otherwise provided.

Sec. 1,559. All publications required by this act shall, unless otherwise provided, be published in the City Record, and one publication therein shall be sufficient, unless it is herein otherwise prescribed.

TITLE 8.

CORONERS.

Coroners to be elected in the boroughs.

Section 1,570. Four coroners shall hereafter be elected in the borough of Manhattan, two in the borough of the Bronx, two in the borough of Brooklyn, three in the borough of Queens and two in the borough of Richmond. They shall be elected in the same manner and at the same general elections as are the sheriffs in the several counties in which such boroughs are situated, shall hold their respective offices for the same term and be removable in the same manner. The coroners in the borough of Manhattan shall hereafter keep open on every day in the year, including Sundays and legal holidays, the coroners office in such borough, with a clerk in constant attendance at all times of the day and night.

Id. Officers and subordinates provided for; salaries and compensation.

Sec. 1,571. The coroners in each borough shall have an office in said borough and shall appoint a clerk who shall receive an annual salary to be fixed by the board of estimate and apportionment and the municipal assembly, and such and so many assistant clerks as shall be provided for in the annual estimate. They shall also appoint a stenographer in each borough, whose duty it shall be to take accurate and full stenographic minutes and transcribe the same, of all proceedings and testimony taken before a jury in any coroner's court, held by any one of said coroners. Each of said coroners shall possess all the powers and perform all the duties by law vested in or imposed upon coroners in this state. The salaries or other compensation of said coroners shall be fixed by the board of estimate and apportionment and the municipal assembly.

CHAPTER XXIII.

PROVISIONS RELATING TO THE COUNTIES AND REPEAL PROVISIONS.

Title 1. Provisions relating to the counties.
2. Repeal provisions.

TITLE 1.

PROVISIONS RELATING TO THE COUNTIES.

Wards in the borough of Brooklyn. How designated.

Sec. 1,577. The wards of the former city of Brooklyn are hereby continued, with their present boundaries and numbers, and shall be known and designated as wards of the borough of Brooklyn.

Wards in boroughs of Manhattan and the Bronx. How designated.

Sec. 1,578. The wards of the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York are hereby continued, with their present boundaries and numbers, and shall be known and designated as wards of the borough of Manhattan and of the Bronx, respectively.

Towns and villages in Richmond county abolished.

Sec. 1,579. The five towns and all the incorporated villages within the county of Richmond are hereby abolished.

Wards in the borough of Richmond,

Sec. 1,580. The territory included within the towns of Castletown, Middletown, Northfield, Southfield and Westfield, in the county of Richmond, shall, in the order named, be know and designated as wards One, Two, Three, Four and Five, respectively, of the borough of Richmond.

Towns in Queens county abolished. Wards in borough of Queens.

Sec. 1,581. The towns of Newtown, Flushing and Jamaica, and all the incorporated villages in that part of the county of Queens included within the city of New York, as constituted by this act, are hereby abolished. The territory heretofore known as Long Island City shall be known as Ward One of the borough of Queens; the town of Newtown as Ward Two of said borough; the town of Flushing as Ward Three; the town of Jamaica as Ward Four; and that part of the town of Hempstead included within the city of New York, as constituted by this act shall be known as Ward Five of the said borough of Queens. But the supervisors of said towns who are in office when this act takes effect shall serve out their respective

terms of office as supervisors of the wards in which they respectively reside, and shall continue to be members of the board of supervisors of the county of Queens.

Municipal assembly. Power to change boundaries.

Sec. 1,582. The municipal assembly may from time to time by ordinance change the boundaries of wards and create other wards as the public good and convenience may require.

Salaries of county officers in New York, Richmond and Kings counties. How met.

Sec. 1,583. The salaries of all county officers in the counties of New York, Kings and Richmond shall, unless otherwise provided by law, be fixed by the board of estimate and apportionment, subject to approval by the municipal assembly and all county charges and expenses and salaries of county officers in said counties and each of them shall be audited by the board of estimate and apportionment, and shall be paid by the city of New York, in the same manner as the salaries of city officers and city charges are paid; but nothing in this section contained shall be construed as in any way changing or modifying the provision contained in section 902 of this act, to the effect that the sums necessary to defray the salaries of county officers and to pay county charges and expenses in said counties shall be levied and assessed upon the property of said three counties, respectively, so that each shall ultimately bear and pay all its own county charges.

Election of county officers required by the constitution not affected.

Sec. 1,584. Nothing in this act contained shall be deemed to interfere with or hereafter prevent the election, under and pursuant to laws relating thereto, of all county officers required by the constitution of the state, to be elected in either of the counties, in whole or in part, included within the city of New York, as constituted by this act.

Public administrator of the county of New York.

Sec. 1,585. Upon the passage of this act the official designation of the public administrator in the city of New York, as heretofore known and bounded, shall be the public administrator of the county of New York, and such officer shall continue a county officer with the powers, duties and obligations now prescribed by law, and the present provisions of law and the present ordinances relating to said public administrator shall not be affected by anything herein contained.

Devolution of powers vested in board of supervisors.

Sec. 1,586. All powers of local legislation and administration in the counties of New York, Kings and Richmond, which are not, at the time of the taking effect of this act, vested in boards of supervisors of said counties by an act entitled: "An act to provide for boards of supervisors in counties wholly within the limits of a city, but not comprising the whole of such city, and defining the powers and duties thereof," or which are not vested in other county officers required by the constitution of the state to be maintained in said three counties respectively, are hereby vested in the municipal assembly of the city of New York, as constituted by this act, except where otherwise vested by this act in administrative departments or officers of said city.

The office of county treasurer of the county of Richmond abolished.

Sec. 1,587. The office of county treasurer of the county of Richmond is hereby abolished and all the powers, duties and obligations of said county treasurer are hereby devolved upon the controller of the city of New York, as constituted by this act.

Proportion of the debt of the county of Queens assumed by the city of New York; power of board of supervisors of said county to bind that part thereof included in the city of New York, restricted.

Sec. 1,588. The proportion of the debt of the county of Queens which shall be assumed by the city of New York, as constituted by this act, shall be determined in the manner following:

The mayor and the municipal assembly as representing the city of New York and the board of supervisors of the county of Queens, are hereby authorized and empowered to agree, if they can, as to the amount of the debt of the county of Queens, which should equitably and properly be assumed by the city of New York. If the mayor and the municipal assembly of the city of New York and the board of supervisors of said county of Queens be unable to agree within six months after this act takes effect as to the proportion of said debt of the county of Queens to be assumed by the city of New York, the supreme court of the Third judicial district shall have power to determine the proportion of said debt of the county of Queens, to be assumed by said city, and to enforce such award, decision and determination, as shall be made in the premises in a suit in equity to be brought by, and in the name of either of said parties not less than six months nor more than one year after the taking effect of this act. Nothing herein contained shall impair the obligation of any contract, and the property and inhabitants of such parts of the county of Queens, as are by this act consolidated, with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, shall continue liable to the existing creditors of the said county of Queens, in like manner as if this act had not been passed. But from and after the taking effect of this act, the board of supervisors of said county of Queens shall have no power to issue any bond, obligation or other evidence of indebtedness which shall bind or render liable the property or the inhabitants of any part of said county included within the city of New York as hereby constituted.

Proportion of the debt of the town of Hempstead to be assumed by the city: power of town board of said town to bind that part thereof included in the City of New York, restricted.

Sec. 1,589. The proportion of the debt of the town of Hempstead which shall be assumed by the city of New York, as constituted by this act, shall be determined in the following manner:

The mayor and the municipal assembly, as representing the city of New York and the town board of the town of Hempstead are hereby authorized and empowered to agree if they can, as to the amount of the debt of the town of Hempstead, which should equitably and properly be assumed by the city of New York. If the mayor and the municipal assembly of the said city and the town board of said town be unable to agree within six months after this act takes effect as to the proportion of said debt of the town of Hempstead to be assumed by the city of New York, the supreme court of the Third judicial district shall have power to determine the proportion of said debt of the town of Hempstead to be assumed by said city, and to enforce such award, decision and determination as shall be made in the premises in a suit in equity to be brought by and in the name of either of said parties not less than six months nor more than one year after this act takes effect.

Nothing herein contained shall impair the obligation of any contract; and the property and inhabitants of such part of the town of Hempstead as is by this act consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, shall continue liable to the existing creditors of the said town of Hempstead, in like manner as if this act had not been passed. But from and after the taking effect of this act, the town board of said town of Hempstead shall have no power to issue any bond, obligation or other evidence of indebtedness which shall bind or render liable the property or inhabitants of any part of said town included within the city of New York, as hereby constituted.

Disposition of real and personal property owned by or held in trust for the town of Hempstead.

Sec. 1,590. All the real property owned by the town of Hempstead and situated in that part of said town included within the city of New York, as constituted by this act, is hereby vested in the said city of New York and divested out of the town of Hempstead; and all of the real property owned by the town of Hempstead and situated elsewhere in said town is hereby vested in the town of Hempstead and divested out of the said city of New York.

All of the property owned by the town of Hempstead other than real property, including money, investments, securities on investments and money held in trust for the benefit of said town, directly or indirectly, shall be divided between the said town and the city of New York, as constituted by this act, and the proportion of the same to which each shall, in equity and good conscience be entitled to receive upon such division, shall be ascertained and determined by agreement by and between the town board of the town of Hempstead, upon the one side, and the mayor and the municipal assembly of the said city of New York, upon the other side, and in case of their inability to agree upon such division within six months after this act shall take effect, the supreme court in the Third judicial district is hereby empowered to divide the same between them and to ascertain and award to each its equitable proportion thereof, and to enforce its determination thereon, and either of the said municipalities may institute and prosecute, in its own name, an acton in equity in said court for that purpose after the expiration of six months and before the expiration of one year after this act takes effect.

Proportion of funds and moneys received by the city which should be returned to Queens county or paid to the controller of the state; how determined.

Sec. 1,591. The mayor and the municipal assembly of the city of New York, as constituted by this act, and the board of supervisors of the county of Queens, are also authorized and empowered to determine what proportion of the funds and moneys that

may be received by the city of New York pursuant to the provisions of this act, from any officer of any of the municipal and public corporations or parts of municipal and public corporations within the county of Queens, and hereby consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, should be refunded or repaid to the county of Queens, as representing taxes levied and assessed for the payment of county charges and expenses within said county, and in like manner what proportion of said moneys that may be so received, were levied for state taxes payable by said county of Queens for the year 1898, and should therefore be turned over to the controller of the state in payment and discharge of said county's obligation to the state in that regard for the year 1898. If the mayor and the municipal assembly, and the said board of supervisors of the county of Queens be unable within three months after this act takes effect to agree as to any or either of said matters, then the supreme court of the Third judicial district shall have power to determine in each case where a disagreement occurs upon said matters, and each of them, and to enforce such determination and decision in a suit in equity, to be brought in the name of the supervisors of said county of Queens, or of the controller of the state, as the case may be, not less than six months nor more than one year after this act takes effect.

Board of supervisors of Queens county not to levy any tax upon that part of said county within the city.

Sec. 1,592. No tax either for state or for county purposes shall, after the taking effect of this act, be levied by the board of supervisors of the county of Queens upon any property situated in that part of said county within the city of New York, as hereby constituted.

Controller of state to determine amount of county charges of Queens county to be borne by the city,

Sec. 1,593. The controller of the state shall have power and is hereby authorized to determine on or before the first day of October in each year the amount of the county charges and expenses which should be equitably borne by that part of the county of Queens situated within the city of New York, as hereby constituted and to report the amount thereof to the controller of said city. The amount so determined by the controller of the state shall be levied and assessed by the municipal assembly of said city upon that part of the county of Queens included within said city, and shall be collected by said city, and as fast as the same is collected, shall be paid over by said city to the county treasurer of the county of Queens, or to such other officer of said county as may by law be authorized to receive the same.

Controller of state to determine amount of state tax to be paid by the part of Queens county within the city; how levied and collected.

Sec. 1,594. It shall be the duty of the controller of the state, on or before the first day of October in each year to compute and apportion the amount of tax for state purposes which should be paid by that part of the county of Queens by this act, included in the city of New York, and to transmit a statement of such amount to the controller of city of New York for levy and collection by the said city. The amount of which a statement is thus transmitted, shall be levied upon and collected from the entire property within the territorial limits of said city in like manner as other expenses of the city.

Controller to transmit to the city a statement of the state tax to be paid by New York, Kings and Richmond counties; how levied and collected.

Sec. 1,595. It shall be the duty of the controller of the state annually to transmit to the controller of the city of New York, as hereby constituted, for levy and collection by said city, a statement of the amount of tax for state purposes to be paid by the counties of New York, Kings and Richmond respectively. The amount of which a statement is thus transmitted by the controller of the state to the controller of said city, shall be levied upon and collected from the entire property within the territorial limits of said city in like manner as other expenses of said city.

Controller of state to apportion Queens county school moneys.

Sec. 1,596. It shall be the duty of the controller of the state, and he is hereby authorized to make on or before the first day of February in each year an apportionment of the school moneys which should equitably be assigned to that part of the county of Queens included within the city of New York, as hereby constituted. Such portion of said school moneys as shall by the controller of the state be determined to belong to that part of the county of Queens included within the city of New York, shall be transmitted to the chamberlain of said city for the uses and purposes provided for in the chapter on education contained in this act.

School moneys for New York, Kings and Richmond counties to be transmitted to the city.

Sec. 1,597. All school moneys which may after the taking effect of this act be allotted to the counties of New York, Kings and Richmond, respectively, shall be transmitted to the chamberlain of the city of New York for the uses and purposes provided for in the chapter on education contained in this act.

TITLE 2,

REPEAL PROVISIONS—EFFECT OF THIS ACT.

Inconsistent provisions of consolidation act repealed.

Sec. 1,608. The act of the legislature of the state of New York, passed July 1, 1882, known as the New York city consolidation act of 1882, and acts amendatory thereof, and supplemental thereto, and other acts of the legislature of the state of New York now in force relating to or affecting the local government of the city of New York, are hereby repealed so far as any provisions thereof are inconsistent with the provisions of this act, or so far as the subject matter thereof is revised or included in this act, and no further. So far as the provisions of this act are the same in terms or in substance and effect as the provisions of the said consolidation act, or of other acts of the legislature now in force relating to or affecting the municipal and public corporations, or any of them herein united and consolidated, this act is intended to be not a new enactment but a continuation of the said consolidation act of 1882, and said other acts, and is intended to apply the provisions thereof as herein modified to the city of New York as herein constituted, and this act shall accordingly be so construed and applied.

Omission of previous acts not to be construed as repealed.

Sec. 1,609. The mere omission from this act of any previous acts or of any of the provisions thereof, including said consolidation act of 1882, relating to or affecting the municipal and public corporations or any of them which are herein united and consolidated, shall not be held to be a repeal thereof.

Acts applicable to the city of New York.

Sec. 1,610. All the provisions of all acts of the legislature of the state of New York, including said consolidation act of 1882, of a general and permanent character, relating to the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, in force at the time this act goes into effect, which are consistent with this act and its purposes, and which are not revised and included in or the subject matter thereof covered by this act, are hereby extended to the city of New York as herein constituted, sa far as they are consistent with this act, and are not in their nature locally inapplicable to other portions of the city than the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York. And the provisions of law thus extended to the city of New York as herein constituted shall apply to said city throughout its whole extent, anything to the contrary notwithstanding contained in the charter of any of the municipal or public corporations or laws relating thereto, which are by this act united and consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York.

To take effect January 1, 1898.

Sec. 1,611. For the purpose of determining the effect of this act upon other acts and the effect of other acts upon this act, this act shall, except as in this section is otherwise provided, be deemed to have been enacted on the first day of January, in the year 1898. This act shall take effect on the first day of January, 1898; provided, however, that where by the terms of this act an election is provided or required to be held or other act done or forbidden prior to January 1, 1898, then as to such election and such acts, this act shall take effect from and after its passage, and shall be enforced immediately, anything in this chapter or act to the contrary notwithstanding.

Invalidity of one section not to invalidate any other section.

Sec. 1,612. The invalidity of any section or provision of this act shall not invalidate any other section or provision thereof.

Interregnum; how prevented.

Sec. 1,613. To guard against the inconvenience and effects that might arise from the changes in local government effected by this act, and to prevent an interregnum and otherwise to carry out the purposes and provisions of this act, it is hereby enacted that until this act and its several provisions shall take effect all existing acts shall remain in force, and all officers in office when this act takes effect shall remain in office until their successors are respectively elected and appointed and shall have qualified under the provisions of this act. And for the purposes aforesaid as well as for any other purpose necessary or proper to effectuate the scheme and objects of this act, and to carry into effect the powers granted by this act to the city of New York, the municipal assembly

shall have power by ordinances to make from time to time all such provisions concerning the local rule and government of the city of New York as herein constituted, and each and all of its departments as it may find necessary or deem needful not inconsistent with the constitution and laws of the state and the express provisions of this act.

Existing rights and remedies preserved.

Sec. 1,614. No right or remedy of any character shall be lost or impaired or affected by reason of this act. This act shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to the time when this act takes effect or by virtue of any laws repealed or modified by this act, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed or said laws had not been repealed or modified; and all actions, suits, proceedings or prosecutions under the New York city consolidation act of 1882 or amendments thereof, or other laws relating to the city of New York and herein repealed or modified, or under any charter or law relating to any of the municipal and public corporations which are herein united and consolidated and pending when this act takes effect, including the counties of Kings and Richmond, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless herein otherwise specially provided, and such actions, suits, proceedings or prosecutions may be continued without change of name or title, or on motion the city of New York may be substituted as plaintiff or defendant, as the case may be, in the place of the existing party to whose rights and obligations the said city of New York has by force of this act succeeded. The corporation counsel shall assume the charge, direction and control of all such actions, suits and proceedings in behalf of the city of New York. All future suits by or against the city of New York as herein constituted or against any of the municipal and public corporations in this act united and consolidated shall be in the corporate name of "The City of New York."

Powers of corporations consolidated devolved upon the city of New York.

Sec. 1,615. Upon the taking effect of this act, on the first day of January, eighteen hundred and ninety-eight, all the municipal and public corporations, except counties, which by this act are consolidated with the corporation heretofore known as mayor, aldermen and commonalty of the city of New York, shall cease and determine, and their powers to the full extent of legislative power in this behalf are respectively devolved upon the corporation of the city of New York as herein constituted and the municipal assembly thereof, unless otherwise expressly prohibited in this act or bylaw. And all offices forming part of the local government of the said municipal and public corporations and parts thereof, including cities, villages, towns and school districts, but not including counties, which, by the first section of this act, are united and consolidated into the city of New York as herein constituted, are hereby abolished as to all the territory embraced within the limits of said city, except as herein otherwise expressly provided. The foregoing does not include the office of recorder of the former city of New York, which is hereby continued under the name and title of recorder of the county of New York.

Forfeiture or loss of property not worked.

Sec. 1,616. Neither the above nor any other provisions of this act shall work any forfeiture or loss of any property or rights therein or relating thereto held in trust by said municipal and public corporations or any of them, or to which they or any of them are or may be entitled, and the city of New York as herein constituted is hereby declared to be the successor in respect of such property and rights of the said municipal or public corporation to which the same was granted; and the said city of New York shall hold the same, as well as all other property and rights to which such corporation may be entitled, as successor, on the same trusts and charged with the same duties as the municipal or public corporation to which it was granted.

Franchises and other grants not affected.

Sec. 1,617. Neither this act nor anything contained therein shall affect any grants or franchises or properties or rights of any nature in, to or concerning property of any character or other grants made by the Nicolls' charter, the Dongan charter, the Cornbury charter, the Montgomerie charter, by the confirmatory act passed the 14th day of October, 1732, or by any other charter or act granted to the corporation know as the mayor, aldermen and commonalty of the city of New York, by the state of New York, or granted by said state to the City of Brooklyn or to any of the other municipal and public corporations which are herein united and consolidated into the city of New York, and each and all of said grants are to all intents and purposes hereby ratified, granted, confirmed and extended to the city of New York as constituted by this act.

This act; how repealed or amended.

Sec. 1,618. This act or any section or provision thereof shall not be deemed to be repealed or amended by any act of the legislature, unless it be so expressly stated, or the legislative intention to that effect is unmistakable.

Chapter 942 of the Laws of 1896 not repealed.

Sec. 1,619. Nothing in this act contained shall be deemed to repeal the provisions of chapter 942 of the laws of 1896.

This act a public act.

Sec. 1,620. This act, providing for uniting into one municipality various communities, including the city and county of New York, the city of Brooklyn, the county of Kings, the county of Richmond and part of the county of Queens with the municipal and public corporations therein, as in this act provided, is intended to be and shall be deemed and held in all courts and jurisdictions to be a public act, of which the courts shall take judicial notice. And this act shall be construed not as an act in derogation of the powers of the state, but as one intended to aid the state in the execution of its duties by providing, subject to the constitution and laws of the state and the provisions and limitations herein contained, an adequate scheme of local government for the communities and people affected, through the instrumentality of the corporate body herein constituted under the name of "The City of New York."

SUPPLEMENTARY ACTS.

AN ACT

To provide for boards of supervisors in counties wholly within the limits of a city but not comprising the whole of such city, and defining the powers and duties thereof.

The people of the state of New York represented in senate and assembly do enact as follows:

Section 1. In every county of the state wholly included within the limits of a city, but not comprising the whole of such city, there shall be a board of supervisors, to be composed of the members of the municipal assembly, board of aldermen, common council or other legislative body of such city, who shall be elected as such, and also as supervisors by the people of the county.

Sec. 2. Every such board of supervisors may act as a board of county canvassers, and shall, in case the county be entitled to more than one member of assembly, have the power of dividing the county into assembly districts as provided by section 5 of article III of the constitution.

Sec. 3. Every such board of supervisors shall have no other or further powers of local legislation or administration, and shall have no power to incur any debt.

Sec. 4. The members of every such board of supervisors shall serve as such without compensation and without other or further compensation than is received by them as members of the municipal assembly, board of aldermen, common council or other legislative body of the city within which the county is included.

Sec. 5. The term of office of each member of every such board of supervisors shall be coextensive with and no longer than his term of office as member of said municipal assembly, board of aldermen, common council or other legislative body of the city within which the county is located.

Sec. 6. All acts and parts of acts heretofore passed by the legislature which are in any respect in conflict or inconsistent with the

provisions hereof or any of them, are hereby repealed.

Sec. 7. Each and every board of supervisors in existence prior to January 1, 1898, in any county of the state falling within the provisions of section 1 of this act, shall from and after said January 1, 1898, be abolished; and all the rights, powers and duties which by law were vested in any such board of supervisors prior to said January 1, 1898, are hereby wholly abrogated except as herein provided.

Sec. 8. This act shall take effect immediately save as otherwise herein provided.

AN ACT

Relating to the election of city officers of the city of New York, as constituted by the greater New York charter, at the general election to be held in November, in the year eighteen hundred and ninety-seven, and for the canvass and return of the votes thereof, and the determination of persons elected thereat.

Section 1. Unless otherwise provided in this act, the officers or boards charged with the execution of the provisions of the election law shall continue to do and perform such acts as they are required by the election law to do and perform within the city of New York, as constituted by the greater New York charter.

Sec. 2. The provisions of the election law, constituting chapter 6 of the general laws, applicable to cities of the first class relating to the registration of electors, the conduct of the election and the canvass and return of the votes for a general election which are not inconsistent with or contrary to the provisions of this act, shall be deemed to apply to all election districts within the boundaries of the city of New York, as constituted by the greater New York charter, for and at the general election to be held in the year 1897, in and for such election districts.

Sec. 3. The town board of the town of Hempstead, in the county of Queens shall, on or before the first day of July in the year 1897, divide such town into election districts which shall contain as near as may be four hundred electors. Such election districts so created shall be compact in form, and shall be respectively wholly within or wholly without the boundary, within such town, of the city of New York, as constituted as aforesaid.

Sec. 4. Certificates of nomination of candidates for a city office to be voted for at the general election in the year 1897, in the city of New York or any part thereof, as constituted by the greater New York charter, shall be filed as follows:

Certificates of nomination of candidates to be voted for by all the electors within the territory of the city of New York, constituted as aforesaid, shall be filed with the board of police commissioners of the city of New York. Said board shall forthwith file a certified copy of each such certificate with the board of elections of the City of Brooklyn, and with the county clerk of the counties of Richmond and Queens, respectively.

Certificates of nomination of candidates to be voted for by only the electors of a portion of the electors of the county of New York, shall be filed with the board of police commissioners of the city of New York.

Certificates of nomination of candidates to be voted for by only the electors of a portion of the electors of Kings county shall be filed with the board of elections of the City of Brooklyn.

Certificates of nomination of candidates to be voted for by only the electors of a portion of the electors of the county of Richmond or the county of Queens shall be filed with the clerk of such counties, respectively.

Sec. 5. At the general election to be held in the year 1897 the board of inspectors in each election district within the city of New York, as constituted by the greater New York charter, shall, forthwith, upon the completion of the count of votes for each city office, respectively, and the announcement thereof, deliver at the place of canvass to the police officer or constable present, or if there be no police or constable present, then to some other person authorized by such board to file the same, a statement subscribed by the board of inspectors stating the number of votes received by each candidate for such office in such election district. Such statement shall forthwith be conveyed by the officer or person to whom it is delivered to the police headquarters of the precinct or other police division in which the place of canvass is located, and he shall deliver it inviolate to the officer in command thereof, who shall immediately transmit by telegraph, telephone or messenger the contents of such statement to the chief of police of the city of New York at police headquarters in such city. Such statements shall be preserved by the police for six months, and shall be presumptive evidence of the true result of such canvass for each such office.

Sec. 6. The county board of canvassers of the counties which are wholly or partly within the city of New York, as constituted by the greater New York charter, shall be the board of canvassers of the votes cast therein for a city office at the general election to be held in the year 1897, and in addition to the statements required to be made by them by the election law, shall make and certify a separate statement of the votes cast for each city office voted for by the electors of such respective counties or any portion thereof in the same form as prescribed for other like statements made by such board. All such statements shall be filed by the secretary of the respective county boards of canvassers of such counties with the board of police commissioners of the city of New York on or before the day succeeding the election.

Sec. 7. The board of police commissioners of the city of New York shall be the city board of canvassers of the city of New York, as constituted by the greater New York charter, of the statements of the votes cast at the election in the year 1897 for municipal officers in the city of New York so constituted, or any part thereof. Three members of such board shall constitute a quorum. If three of such officers shall not attend on a day duly appointed for a meeting of the board, the secretary of the board shall forthwith notify the mayor and recorder of the city of New York to attend such meeting, and they shall forthwith attend accordingly, and shall, with the other members of the board of police commissioners attending, constitute such board. The chief clerk of the board of police shall be the secretary of the city board of canvassers created by this act. The president of the board of police commissioners shall be the president of the board of canvassers, and he shall appoint a meeting of such board at police headquarters in the city of New York on the first Monday of December next after such election to canvass the statements of the boards of county canvassers of such elections for city officers. He shall notify each member of the board of such meeting. The board may adjourn such meeting from day to day not exceeding a term of five days.

Sec. 8. Said board shall, at such meeting, proceed to canvass the certified statements of the county board of canvassers of each county in which such election was held. If any member of such board shall dissent from a decision of the board, or shall deem any of the acts or proceedings of the board to be irregular, and shall protest against the same, he shall state such dissent or protest in writing signed by him, setting forth his reasons therefor, and deliver it to the secretary of the board, who shall file it in his office. Upon the completion of such canvass, such board shall make separate tabulated statements signed by the members of such board, or a majority thereof, of the whole number of votes cast for all the candidates for each office shown by such certified statements to have been voted for, and of the whole number of votes cast for each of such candidates, indicating the number of votes cast in each county therefor, and if the voters of not more than one county of portion of such county were entitled to vote for such candidates, the name and portion of such county, and the name of each candidate, and the determination of the board of the persons thereby elected to such office by the greatest number of votes. Each such statement and determination shall be filed and recorded in the office of the clerk of the board of aldermen of the city of New York, who shall cause the publication thereof to be made at once in at least two newspapers in each county or portion of the county within the city of New York, as constituted by the greater New York charter, and also a detailed statement thereof to be published in the city record showing the votes cast in each election district for each such city office.

Sec. 9. Upon the completion of such canvass by such board and the determination thereof, the president of the board of police commissioners shall forthwith transmit a certificate of election to each person shown thereby to have been elected to office. Such certificate shall be countersigned by the secretary of the board under the seal of the city and county of New York.

Sec. 10. This act shall take effect immediately.

AN ACT

To amend chapter nine hundred and nine of the laws of eighteen hundred and ninety-six, known as the election law, and entitled "An act in relation to the elections, constituting chapter six of the general laws."

The people of the state of New York represented in the senate and assembly do enact as follows:

Section 1. Section five of chapter nine hundred and nine of the laws of eighteen hundred and ninety-six, being an act entitled "An act in relation to the elections, constituting chapter six of the general laws," is hereby amended to read as follows:

Notice of elections by secretary of state and county clerk.

Sec. 5. The secretary of state shall, at least three months before each general election, make and transmit to the county clerk of each county, and the police board of the city of New York, a notice under his hand and official seal, stating the day upon which such election shall be held, and stating each officer, except city, village and town officers, who may be lawfully voted for at such election by the electors of such county or any part thereof. If any such officer is to be elected to fill a vacancy, the notice shall so state. The secretary of state shall forthwith, upon the filing

in his office of the governor's proclamation ordering a special election, make and transmit to each county clerk and to the police board of the city of New York, a like notice of the officers to be voted for at such special election in such county or city or any part thereof, and cause such proclamation to be published in the two newspapers published in such county having the largest circulation therein, at least once a week until such election shall be held. Each county clerk shall forthwith, upon receipt of either such notice, file and record it in his office, and shall cause a copy of such notice to be published once in each week until the election therein specified in the newspapers designated to publish election notices. He shall also publish as a part of such notice, each city, village and town officer who may lawfully be voted for at such election by the electors of such county or any part thereof.

Sec. 2. Section six of said act is hereby amended so as to read as follows:

Notice of submission of proposed constitutional amendments or other propositions or questions.

Sec. 6. Every amendment to the constitution proposed by the legislature, unless otherwise provided by law, shall be submitted to the people for approval at the next general election, after action by the legislature in accordance with the constitution; and whenever any such proposed amendment to the constitution or other proposition, or question provided by law to be submitted to a popular vote, shall be submitted to the people for their approval, the secretary of state shall include in his notice to the county clerk and the police board of the city of New York, of the general election, a copy of such amendment, proposition or question, and if more than one such amendment, proposition or question is to be voted upon at such election, such amendment, proposition or question, respectively, shall be separately and consecutively numbered. If such amendment, proposition or question is to be submitted at a special election the secretary of state shall, at least twenty days before the election, make and transmit to each county clerk and the police board of the city of New York a like notice. Each county clerk shall, forthwith, upon the receipt of such notice, file and record it in his office, and shall cause a copy of such notice to be published once a week until the election therein specified, in the newspapers designated to publish election notices.

Section 3. Section eight of said act is hereby amended so as to read as follows:

Creation, division and alteration of election districts.

Sec. 8. Every town, or ward of a city, not subdivided into election districts shall be an election district. The town board of every town containing more than four hundred electors, and the common council of every city except New York, in which there shall be a ward containing more than four hundred electors, shall, on or before the first day of July in each year, whenever necessary so to do, divide such town or ward respectively into election districts, each of which shall be compact in form, wholly within the town or ward, and shall contain respectively as near as may be, four hundred electors, but no such ward or town shall be again divided into election districts until, at some general election the number of votes cast in one or more districts thereof shall exceed six hundred; and in such a case the redivision shall apply only to the town or ward in which such district is situated. If any part of a city shall be within a town, the town board shall divide into election districts only that part of the town which is outside of the city. No election district including any part of a city shall include any part of a town outside of a city. A town or a ward of a city containing less than four hundred electors may, at least thirty days before the election or appointment (where appointment is directed to be made by law) of inspectors of election of such town or ward, be divided into election districts by the board or other body charged with such duty when, in the judgment of such board or body, the convenience of the electors shall be promoted thereby. The creation, division or alteration of an election district outside of a city shall take effect immediately after the next town meeting, and at such next town meeting inspectors of election shall be elected for each election distict as constituted by the creation, division or alteration. If the creation, division or alteration of an election district is rendered necessary by the creation or alteration of a town, or ward of a city, it shall take effect immediately, but a new town or ward shall not be created, and no new town or ward shall be subdivided into election districts between the first day of August of any year and the day of the general election next thereafter. If inspectors are not elected or appointed for such district outside of a city before September the first next thereafter, the town board of the town shall appoint four inspectors of election for such district.

If a town shall include a city or a portion of a city, only such election districts as are wholly outside of the city shall be deemed election districts of the town, except for the purpose of town meetings.

The police board of the city of New York shall divide such city into election districts on or before the first day of July in any year whenever necessary so to do as hereinafter provided.

The election districts existing pursuant to the provisions of law in the year 1897 in the counties of New York and Kings shall continue with their present boundaries until at some general election for the office of governor the number of registered electors therein shall exceed six hundred, provided, however, that any election district containing less than seventy-five electors in such counties, made necessary by the crossing of congressional lines with other political divisions, may be consolidated with contiguous election districts in any year when no representative in congress is to be voted for in such districts.

On or before the first day of July in the year 1898 the police board of the city of New York shall divide that portion of such city that is outside the counties of New York and Kings into election district which shall be compact in form and shall contain as near as may be four hundred electors as shown by the registration of electors for the general election held therein in the year 1897. Such election districts so established in the city of New York shall not again be changed until at some general election for the office of governor the number of registered electors therein shall exceed six hundred, except where changes are made necessary by a change in the boundaries of congressional, senate or assembly districts or ward lines, provided, however, that when the number of registered electors in any election district shall for two consecutive years be less than two hundred and fifty, such district may be consolidated with contiguous election districts in the discretion of said police board.

In that portion of the city of New York within the county of New York each election district shall be compact in form entirely within an assembly district and numbered in consecutive order therein respectively. In that portion of the city of New York outside of the county of New York each election district shall be compact in form, entirely within a ward and numbered in consecutive order therein respectively.

Except as heretofore provided no election district shall contain portions of two counties, or two congressional, senate or assembly districts or two wards. Each town and each part of a town to be included in the city of New York, as constituted by the greater New York charter, shall be respectively deemed to be a ward within the meaning of this section.

Sec. 4. Section ten of said act is hereby amended so as to read as follows:

Designation of places for registry and voting, publication of same and provision of furniture therefor.

Sec. 10. On the first Tuesday in September in each year, the town board of each town and the common council of each city, except New York, and the police board of the city of New York shall designate the place in each election district in the city or town at which the meeting for the registration of electors and the election shall be held during the year. Each room so designated shall be of a reasonable size, sufficient to admit and comfortably accommodate at least ten electors at a time outside of the guard rails. No building or part of a building shall be so designated in any city if within thirty days before such designation intoxicating liquors, ale or beer shall have been sold in any part thereof. No room shall be so designatel elsewhere than in a city if within thirty days before such designation intoxicating liquors, ale or beer shall have been sold in such room or in a room adjoining thereto, with o door or passageway between the two rooms. No intoxicating liquors, ale or beer shall be sold in such building in a city or such room or adjoining room elsewhere after such designation and before the general election next thereafter, or be allowed in any room in which an election is held during the day of the election or the canvass of the votes. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor. If any place so designated shall thereafter and before the close of the election be destroyed, or for any reason become unfit for use, or cannot for any reason be used for such purpose, the officers charged with the designation of a place for such election shall forthwith designate some other suitable place for holding such election. Not more than one polling place shall be in the same room, and not more than two polling places shall be in the same building. The officers authorized to designate such places in any town or city shall provide for each polling place at such election the necessary ballot and other boxes, guard rails, voting booths and supplies therein, and the other furniture of such polling place necessary for the lawful conduct of each election thereat, shall preserve the same when not in use, and shall deliver all such ballot and other boxes for each polling place, with the keys thereof, to the inspectors of election of each election district at least one-half hour before the opening of the polls at each election. The officers authorized to designate the registration and polling places in any city, except the city of New York, shall cause to be published in two newspapers within such city a list of such places so designated, and the boundaries of each election district in which such registration and polling place is located. Such publication shall be made in the newspapers so selected upon each day of registration and the day of election, and on

the day prior to each such days. One of such newspapers so selected shall be one which advocates the principles of the political party polling the highest number of votes in the state at the last preceding election for governor, and the other newspaper so designated shall be one which advocates the principles of the political party polling the next highest number of votes for governor at said election.

The police board of the city of New York shall cause to be published in two newspapers in each county wholly or partly within such city a list of the registration and polling places so designated in each borough in such respective counties and the boundaries of each election district therein in which such registration and polling place is located. Such publication shall be made in such newspapers upon each day of registration and the day of election and on the day prior to each of such days. Such publications shall be made in the newspapers published in such counties which shall respectively advocate the principles of the political parties which at the last preceding election for governor respectively cast the largest and next largest number of votes in the state for such office. The said police board shall also cause to be published in the City Record on or before the first day for registration in each year a complete list of all the registration and polling places so designated and the boundaries of the election districts in which such places are located arranged in numerical order under the designation of the respective boroughs in which they are located. In selecting the newspapers in which such publications are to be made the said board shall keep in view the object of giving the widest publicity thereto.

Sec. 5. Section twelve of said act is hereby amended so as to read as follows:

Appointment and qualifications of election officers in cities.

Sec. 12. On or before the first day of October in each year the police board of the city of New York and the mayor of each other city shall select and appoint the election officers for each election district in their respective cities, and shall severally have the power to fill all vacancies which may arise before the opening of the polls on election day. To insure the bi-partisan character of such board or body of election officers required by the election law, each political party entitle to representation in such board or body shall have the right, not later than the first day of August in each year, to prepare and file with the board or officer empowered to make the appointments as herein provided, a list of persons, members of such party, dulty qualified to serve as election officers, together with a supplemental list of persons, members of such party, party, qualified to serve as election officers, from which the said mayor or board may select and appoint persons to fill vacancies occurring in the representation of such party in such board or body of election officers. In the city of New York such list shall be authenticated and filed by the chairman of the executive committee of the county committee of the party in the respective counties wholly or partly within such city, as constituted by the greater New York charter; in other cities, by the chairman and secretary of the general, city or county committee of such party, if there be such a committee, or, if not, then by the corresponding officers (by whatever name known) of any committee performing the usual functions of a city or county committee; provided, however, that if in any city more than one such list be submitted in the name or on behalf of the same political party only that list shall be accepted which is authenticated by the proper officer or officers of the faction or section of such party, which was recognized as regular by the last preceding state convention of such party; or, where no such convention has been held within the year, by the proper officer of the faction or section of said party which, at the time of the filing of said list, is recognized as regular by the state committee of such party which was organized by or pursuant to the direction of the last preceding state convention of such party. All persons so proposed for appointment may be examined as to their qualifications by or under the direction of the board or officer charged with the duty of making the appointment, and if found duly qualified they shall be appointed to the respective positions for which they are recommended. If any of them are found disqualified, notice in writing of that fact shall be promptly given to the person or persons by whom the list embracing their names was authenticated, and the vacancy shall be filled by the appointment of a qualified person named in the supplemental list of party representatives heretofore provided for. If either party entitled to propose election officers, as herein provided, shall fail to authenticate and file such lists on or before the first day of August, or if any of the persons named therein shall be found disqualified, and if no supplemental list be filed, as herein provided, or if, one or more persons named in such supplemental list be found disqualified then such board or officer shall, if necessary, proceed to select in such manner as may seem to them or him feasible from the members of the party or parties in default, or whose nominees have been found disqualified, and shall appoint suitable persons to act as election officers. In the city of New York the members of the board charged with the duty of appointing election officers, who represent the same political party, shall have the exclusive right and be charged with the exclusive duty of selecting from the lists submitted, or in lieu of persons named on such list who shall have been found disqualified, the members of such party who are to be appointed as election officers. Every person appointed as an election officer shall, within five days after notice of his appointment, take and subscribe the constitutional and statutory oaths of office, which shall be administered, if in the city of New York, by the superintendent of elections or by the chief of the branch bureau of elections in the borough in which they are appointed to serve, or the chief clerk, or assistant clerk of such bureau, designated by the police board to perform such duty; and if in any other city, by the mayor thereof, or by any person or persons designated by him for that purpose; and all of said officers, and every clerk or person so designated by them or him for that purpose, shall be and is hereby authorized and empowered to administer such oaths. Every person so sworn as an election officer shall receive a certificate of appointment and qualification, signed by the person who administered the oath, in such form as may be approved by the board or officer by which or whom he was appointed, and specifying the capacity and the election district in which he is to serve, and the date of the expiration of his term of office. Any election officer so appointed may be removed for cause, by the board or mayor making the appointment, in which case such removal, unless made while such officer is actually on duty on the day of registration, revision of registration or election, and for improper conduct as an election officer, shall only be made after notice in writing to the officer to be removed, which notice shall set forth clearly and distinctly the reason for his removal. The said board of police may delegate to the superintendent of elections of the city of New York, and to the chief of a branch bureau of elections, the power to remove election officers for cause, on any day of registration or election. Any election officer who shall at any time be appointed to fill a vacancy, which fact shall be stated in the certificate of appointment, shall hold office only during the unexpired term of his predecessor, and provided that no election officer shall be transferred from one election district to another after he has entered upon the performance of his duties. The chairman of each board of inspectors of each election district shall, within twenty-four hours after any election, furnish to the mayor or board appointing such officers, if required so to do by such mayor or board, under his hand, a certificate stating the number of days of actual service of each member of such board, the names of the persons who served as poll clerks and ballot clerks on election day, and the number of days during which the store or building hired for registration and election purposes was actually used for such purposes. Any person acting as such chairman, who shall willfully make a false certificate, shall be deemed guilty of a misdemeanor. Every person appointed as an election officer, failing to take and subscribe the oath of office as hereinbefore provided, or who shall willfully neglect or refuse to discharge the duties to which he was appointed, shall, in addition to the other penalties prescribed by law, be liable to a fine of one hundred dollars, to be sued for and recovered by the mayor or board making the appointment in a court of record, for the use and benefit of the treasury of such city. Any election officer who, being removed for cause, shall fail upon demand to deliver over to his successor the register of electors, or any tally sheets, book, paper, memorandum or document relating to the election in his possession, so far as he has made it, shall be liable to a like penalty to be recovered in a like manner for the benefit of such city. All persons appointed and serving as election officers on each of the days of registration and of election and of canvass of the votes in cities of the first class shall be exempt from jury duty for one year from the date of the general election at which they serve.

Sec. 6. Section eighteen of said act is hereby amended so as to read as follows:

Payment of election expenses.

Sec. 18. The expense of providing polling places, voting booths, supplies therefor, guard rails and other furniture of the polling place, and distance markers, and the compensation of the election officers in each election district, shall be a charge upon the town or city in which such election district is situated, except that such expenses incurred for the purpose of conducting a village election, not held at the same time as a general election, shall be a charge upon the village. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerk, and distance markers to be used at a town meeting, city or village elections not held at the same time as a general election, and of printing the list of nominations therefor shall be a charge upon the town, city or village in which the election is held. The expense of printing and delivering the official ballots, sample

ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers to be used in any county, except such counties or portions thereof as are included within the city of New York, at any other election, if no town meeting, city or village election be held at the same time therewith, and of printing the lists of nominations therefor, shall be a charge upon such county. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspector and ballot clerks and distance markers, to be used in any such county at any such other election, and of printing the lists of nominations therefor, if the town meeting, city or village election be held in such county at the same time therewith, shall be apportioned by the county clerk between such town, city or village and such county, in the proportion of the number of candidates for town, city or village officers on such ballots, respectively, to the whole number of candidates thereon, and the amount of such expense so apportioned to each such municipality shall be a charge thereon. All expenses relating to or connected with elections lawfully incurred by the police board of the city of New York, shall be a charge on such city, and after being audited by the proper officer, shall be paid by the controller of said city upon the certificate of such board. The county clerk of each county, not salaried, shall be paid by such county a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the board of supervisors of the county, or the board acting as such board of supervisors. The town clerk of each town shall be paid by such town a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the other members of the town board of the town. Ballot clerks, and persons acting as such, shall receive the same compensation for their attendance at an election as inspectors of election for the election, and be paid in like manner. Poll clerks shall receive the same compensation for their attendance at an election and canvass of the votes as inspectors of election and shall be paid in like manner. An inspector of election, except in the city of New York, lawfully required to file papers in the county clerk's office, shall, unless he resides in the city or town in which such office is situated, be entitled to receive as compensation therefor five dollars, and also four cents a mile for every mile actually and necessarily traveled between his residence and said county clerk's office in going to and returning from such office. In cities of the first class, the persons appointed and serving as inspectors of election shall receive five dollars for the hours fixed by law for each day of registration, and of revision of registration for a special election, and five dollars for the hours fixed by law for the election, and five dollars for the canvass and return of the votes. The poll clerks in such city shall each receive the same compensation as inspectors for the election and for the canvass of the votes, and the ballot clerks shall receive five dollars each. Such officers shall be paid by the controllers of the respective cities upon the certificate of the board appointing them.

Sec. 7. Section nineteen of said act is hereby amended so as to read as follows:

Delivery of election laws to clerks, boards and election officers.

Sec. 19. The secretary of state shall, at least sixty days before each general election held after this act takes effect, cause to be prepared a compilation of all the laws relating to elections in cities, towns and villages then in force, with annotations and explanatory notes and blank forms, properly indexed, and shall procure the same to be printed wherever he deems it desirable for the best interests of the state, and transmit to the county clerk of each county, except New York, Kings and Richmond counties, and to the superintendent of elections located in the borough of Manhattan and to the chief of the branch bureau of elections in each other borough of the city of New York a sufficient number of copies thereof to furnish one such copy to the county clerks and to said superintendent and to each of said chiefs of bureaus of election, and one to each town, village and city clerk and to each election officer in such county and said boroughs, together with such number of extra copies as may in his judgment be necessary to replace lost or mutilated copies before delivery thereof to election officers. The county clerk of each county, except those counties the whole of which are included within the city of New York shall forthwith transmit one of such copies to each of such officers in such county, and not in the city of New York, and said superintendent and the chief of each branch bureau of elections in the boroughs of the city of New York shall forthwith transmit one of such copies of each such officer in his borough. Each copy so received by each such officer shall belong to the office of the person receiving it. Every incumbent of the office shall preserve such copy during his term of office, and upon the expiration of his term or removal from office deliver it to his successor.

Sec. 8. Subdivision three of section thirty-two of said act is hereby amended so as to read as follows:

Subdivision 3. In cities of the first class the board of inspectors of each election district shall, immediately after the close of each day of registration, make and complete one list of all persons enrolled in their respective districts, in the numerical order of the street numbers thereof, which list shall be signed and certified by the board of inspectors. Such list shall be delivered by the chairman of the board of inspectors to the police captain of the precinct in which the election district is located, or an officer thereof, who shall forthwith deliver the same, if in The city of New York, to the superintendent of elections as to each election district in the borough of Manhattan, and to the chief of the branch bureau of elections of each other borough in which the election district is located, and if in the city of Buffalo, to the city clerk. The police board of the city of New York and the city clerk of Buffalo shall, as soon as possible after the delivery of such lists and before the day of election, print in pamphlet form for each assembly district or ward within such respective cities not less than fifty times as many copies of said lists as there are election districts in such assembly district or ward, so that each assembly district or ward pamphlet shall contain the lists of the several election districts in such assembly district or ward. Upon the written application of the chairman of the executive committee of the county committee of any political party entitled to a separate column upon the official ballot to be voted in such city at the election for which the registration is made, the said police board and said city clerk shall respectively deliver to such chairman five copies of each assembly district or ward pamphlets for each election district within such assembly district or ward in such county.

Two pamphlets containing the lists of the registered persons in the election districts within his precinct shall be furnished to each police captain in such cities and it shall be the duty of such police captains to cause an investigation of each name registered therein to be made and to report to his commanding officer any case of false registration found in his precinct.

The remaining pamphlets so printed shall be distributed in the discretion of the said police board and said city clerk who shall have respectively the power to charge for each pamphlet a sum not exceeding ten cents a copy and any moneys resulting from the sale thereof shall be paid to the controller of the city for the benefit of the treasury of such city. Such lists shall be made and printed as near as may be in the following form, to wit:

GRAND STREET.

Residence number, or other designation.	Name of voter.
14.	Smith, John M.
15.	Jones, Charles M.

Sec. 9. Subdivision two of section thirty-five of the said act is hereby amended so as to read as follows:

Subdivision 2. The register of electors made by the chairman of the board of inspectors shall be, and shall be known, as the public copy of registration. Such public copy shall be left in a permanent position in the place of registration from the first day of registration until election day, and shall at all reasonable times be open to public inspection and for making copies thereof. Each other inspector shall carefully preserve his register of electors and shall be responsible therefor, until the close of the canvass of the votes on election day, except as hereinafter provided for in cities of the first class. At the close of each day of registration, the inspectors shall draw a line in ink immediately below the name of the elector last entered upon each page of each such register. Upon the succeeding day of registration, they shall enter the names of electors in the alphabetical order of the first letter of the surname below the line so drawn upon the proper page after the close of the previous day of registration. Upon the close of the last day of registration, the inspectors shall again carefully compare all the books of registration, to see that they are identical as to their contents, and (after making and completing the separate list of the electors in cities of the first class, as provided in subdivision three of section thirty-two of the election law) shall certify as a board in the proper place provided therefor upon each such register that such register is a true and correct register of the persons enrolled by them in such district for the next ensuing election, and shall state the whole number of such persons so enrolled. In cities of the first class, at the close of the last day of registration, the chairman of the board of inspectors shall take from an inspector of opposite political faith from himself, the register of electors made by such inspector and shall file the same on the Monday after the last day of registration, if in the city of New York with the chief of the bureau of elections of the borough in which the election district is located, and if in the city of Buffalo with the city clerk. Such register so filed shall be a part of the records of the offices in which it is filed. The two other inspectors of opposite political faith from each other shall each retain their respective registers of electors for use on election day. All registers of electors shall at all reasonable hours be accessible for public examinations and making copies thereof, and no

charge of any kind shall be made for such examination or for any elector making a copy thereof. In cities of the first class the public copy of registration shall be used, if necessary, on election day by the inspector whose register was filed as herein provided by said chairman. Any person who shall alter, mutilate, destroy or remove from the place of registration the public copy of such registration, shall be guilty of a felony, and shall be punished upon conviction thereof by imprisonment in a state prison for not less than two nor more than five years, unless otherwise provided by law. If, in cities of the first class, the board of inspectors shall meet on the second Saturday before the election for the purpose of revising and correcting the register of electors in pursuance of an order of the supreme court, a justice thereof or a county judge, as provided in section thirty-one of the election law, the inspectors shall certify forthwith to the officer with whom the copy of the register is filed, the change or changes made upon such register in pursuance of such order. At any revision of registration for an election other than a general election, the quadruplicate register of electors for the last preceding general election shall be furnished to the inspectors of election by the officer or board having the custody thereof, and the inspectors shall certify to the officer or board in cities of the first class with whom the registers are filed, the changes, additions or alterations made in such registers for such election. In the cities of the first class at the close of the canvass of the votes of any election, or within twenty-four hours thereafter the two copies of the register of electors used by the inspectors and the public copy thereof shall be filed respectively with the chief of the bureau of elections in the borough of the city of New York, in which the election district is located, and with the city clerk of Buffalo. In all election districts other than in cities of the first class, one copy of the register used on election day by the inspectors shall within twenty-four hours after the close of the election be filed in the office of the town or city clerk of the town or city in which such election district is, and the other copies with the county clerk. Such register of electors shall be carefully preserved for use at any election which may be ordered or held in either of such counties or cities, respectively, prior to the next ensuing general election, at which they may be required.

Sec. 10. Subdivision one of section thirty-six of said act is hereby amended so as to read as follows:

Delivery of blank books for registration, certificates and instructions.

Sec. 36. Subdivision 1. The secretary of state shall purchase wherever he deems it desirable for the best interests of the state, a suitable number of blank books for register of electors, with blank certificates and brief instructions for registering the names of electors therein, in the forms respectively provided in subdivisions one and two of section thirty-two of the election law, at least four of such books for each board of inspectors in the state, and such number of extra copies thereof as in his judgment may be necessary for each county or city to replace lost or damaged registers before delivery to the inspectors. Such register of electors shall have the leaves thereof indexed with the letters of the alphabet, beginning with the letter "A" for the first leaf, and so on. He shall transmit such registers, certificates and instructions to the county clerk of each county, except those counties the whole of which are included within the city of New York; to each such county clerk a sufficient number thereof for the use of the boards of inspectors within his county and not within the city of New York, and to the superintendent of elections of the city of New York, located in the borough of Manhattan, and to the chief of the branch bureau of elections in each other borough within the city of New York a sufficient number thereof for the use of each board of inspectors within said respective boroughs at least twenty days prior to the first day of registration for a general election in each year. The county clerk shall deliver such books to the town clerks of each town, and to the city clerk of each city in such county, by mail or otherwise, at least five days prior to the first day of registration, and such town clerks and city clerks, and the said superintendent and chiefs of bureaus of elections in the city of New York shall deliver such books to the inspectors of said boroughs, respectively, before the hour set for registering the names of electors on the first day of registration. On the last day of registration, the police board of the city of New York and the city clerk of Buffalo shall furnish to each board of inspectors in their respective cities, blanks for the list of electors provided for in subdivision three of section thirty-two of the election law.

Sec. 11. Section fifty-eight of said act is hereby amended so as to read as follows:

Places of filing certificates of nomination.

Sec. 58. Certificates of nomination of candidates for office to be filled by the electors of the entire state, or of any division or district greater than a county, shall be filed with the secretary of state, except that each certificate of nomination of a candidate for member of assembly for the assembly district composing the counties of Fulton and Hamilton, shall be filed in the office of the county clerk of Fulton county, and a copy thereof certified by the county clerk of Fulton county, shall be filed in the office of the county clerk of Hamilton county; so long as the said counties constitute one assembly district, and except that certificates of nomination of candidates for offices to be filled only by the electors or a portion of the electors of the city of New York shall be filed with the police board of the city of New York, in the office of the superintendent of elections. Certificates of nomination of candidates for offices to be filled only by the votes of electors, part of whom are of New York city, and part of whom are of a county not wholly within the city of New York, shall be filed with the clerk of such county in the office of the superintendent of elections and with the police board of said city. Certificates of nomination of candidates for offices of any other city, or for offices of a village or town to be elected at a different time from a general election, shall be filed with the clerk of such city, village or town, respectively. All other certificates of nomination shall be filed with the clerk of the county in which the candidates so nominated are to be voted for. All certificates and corrected certificates of nomination, all objections to such certificates and all declination of nominations are hereby declared to be public records; and it shall be the duty of every officer or board to exhibit without delay, every such paper or papers to any person who shall request to see the same. It shall also be the duty of each such officer or board to keep a book which shall be open to public inspection, in which shall be correctly recorded the names of all candidates nominated by certificates filed in the office of such officer or board, or certified thereto, the title of the office for which any such nomination is made, the political or other name and emblem of the political party or independent body making such nomination; and in which shall also be stated all declinations of nominations or objections to nominations, and the time of filing each of the said papers.

Sec. 12. Section fifty-nine of said act is hereby amended so as to read as follows:

The times of filing certificates of nomination.

Sec. 59. The different certificates of nomination shall be filed within the following periods before the election for which the nominations are made, to wit: Those required to be filed with the secretary of state, if party nominations, at least thirty and not more than forty days; if independent nominations, at least twenty-five and not more than forty days; those required to be filed with a county clerk, or the police board of the city of New York, or with the city clerk of any other city, if party nominations, at least twenty-five and not more than thirty-five days; if independent nominations, at least twenty, and not more than thirty-five days; those required to be filed with a town or village clerk, if party nominations, at least fifteen and not more than twenty days; if independent nominations, at least ten and not more than twenty days. In case of a special election ordered by the governor under the provisions of section four of the election law, the certificates of nominations for the office or offices to be filled at such special election shall be filed with the proper officer or board not less than fifteen days before such special election.

Sec. 13. Section sixty of said act is hereby amended so as to read as follows:

Certification of nomination by secretary of state.

Sec. 60. The secretary of state shall, fourteen days before the election, certify to the county clerk of each county, except those counties the whole of which are within the city of New York, and to the police board of the city of New York, the name, residence and place of business, if any, of each candidate nominated in any certificate so filed for whom the electors of any such county or said city, respectively, may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem or device chosen to represent and distinguish the candidates of the political party or independent body making such nominations.

Sec. 14. Section sixty-one of said act is hereby amended so as to read as follows:

Publication of nominations.

Sec. 61. At least six days before an election to fill any public office, the county clerk of each county, except those counties which are wholly within the city of New York, shall cause to be published in not less than two or more than four newspapers within such county, a list of all nominations of candidates for offices to be filled at such election, certified to such clerk by the secretary of state, or filed in the office of such clerk. The police board of the city of New York shall, within the same time before an election to fill any public office, cause to be published in not less than two, nor more than four newspapers published in each county wholly or partly within such city a list of the nominations of candidates for offices to be voted for at such election in such counties, respectively, which were certified to such board by the secretary of state, or filed in the office of such board. Such publication shall contain the name and residence, and if in a city, the street number of the residence and place of business, if any, and the party or other designation of each candidate, the office for which he was nominated, specifying the political division in which he is to

be voted for, and a fac-simile of the emblems or devices selected and designated as prescribed by the fifty-sixth and fifty-seventh sections of this act, to represent and distinguish the candidates of the several political parties or independent bodies. The city clerk of each city, except New York, and the police board in said city, shall at least six days before an election of city officers thereof, held at a different time from a general election, cause like publication to be made as to candidates for offices to be filled at such city election in a like number of newspapers published in said city. One of such publications shall be made in a newspaper which advocates the principles of the political party that, at the last preceding election for governor, cast the largest number of votes in the state for such office, and another of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the next largest number of votes in the state for such office. The clerk or board, in selecting the papers for such publications, shall select which, according to the best information he can obtain, have a large circulation within such county or city. In making additional publications, the clerk or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties, and in no event shall additional publications be made in two newspapers representing the same political party. The clerk or board shall make such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such newspapers. Should the county clerk find it impracticable to make the publication six days before election day in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election.

Sec. 15. Section sixty-two of said act is hereby amended so as to read as follows:

Lists for town clerks and aldermen.

Sec. 62. The county clerk of each county, except those counties which are wholly within the city of New York, shall at least six days before election day send to the town clerk of each town, and to an alderman of each ward in any city in the county, at least five and not more than ten printed lists for each election district in such town or ward, containing the name and residence, and if in a city the street number of residence, and place of business, if any, and the party or other designation, and also a fac simile of the emblem or device of each political party, or independent body nominating candidates to be voted for by the electors of the respective towns and wards. Such lists shall, at least three days before the day of election be conspicuously posted by such town clerk or alderman in one or more public places in each election district of such town or ward, one of which shall be at each polling place.

Sec. 16. Section sixty-four of said act is hereby amended so as to read as follows:

Declination of nomination.

Sec. 64. The name of a person nominated for any office shall not be printed on the official ballot if he notifies the officer with whom the original certificate of his nomination is filed, in a writing signed by him and duly acknowledged, that he declines the nomination, or if nominated by more than one political party, or independent body, the name of a person so nominated shall not be printed on the ticket of a party or independent body whose nomination he shall in like manner decline. If the declination be of a party nomination filed with the secretary of state, such notification shall be given at least twenty-five days, and if an independent nomination, at least twenty days before the election. If the declination be of a party nomination filed with a county clerk or the police board of the city of New York, or with the city clerk of any other city, such notification shall be given at least twenty days, and if of an independent nomination, at least eighteen days before the election. If the declination be of a party nomination filed with a town or village clerk, such notification shall be given at least ten days, and if of an independent nomination, at least seven days before the election. The officer to whom such notification is given, shall forthwith inform by mail or otherwise, the committee, if any, appointed on the face of such certificate as permitted by sections fifty-six and fifty-seven of this act, and otherwise one or more persons whose names are attached to such certificate, that the nomination conferred by such certificate has been declined, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise, that such nomination has been declined, to the several county clerks or other officers, authorized by law to prepare official ballots for election districts affected by such declination.

Sec. 17. Sub-division one of section sixty-six of said act is hereby amended so as to read as follows:

Filling vacanies in nominations, and correction of certificate.

Sec. 66. Subdivision 1. If a nomination is duly declined, or a candidate regularly nominated dies before election day, or is found to be disqualified to hold the office for which he is nominated, or if any certificate of nomination is found to be defective but not wholly void, the committee appointed on the face of such certificate of nomination, as permitted by sections fifty-six and fifty-seven of this act, may make a new nomination to fill the vacancy so created, or may supply such defect, as the case may be, by making and filing with the proper officer a certificate setting forth the cause of the vacancy or the nature of the defect, the name of the new candidate, the title of the office for which he is nominated, the name of the original candidate, the name of the political party or other nominating body which was inscribed on the original certificate, and such further information as is required to be given by an original certificate of nomination; except that where a certificate is filed pursuant to this section to fill a vacancy it shall not be lawful to select a new emblem or device, but the emblem or device chosen to represent or distinguish the candidate nominated by the original certificate shall be used to represent and distinguish the candidate nominated, as provided by this section. The certificate so made shall be subscribed and acknowledged by a majority of the members of the committee, and the members of the committee subscribing the same shall make oath before the officer or officers before whom they shall severally acknowledge the execution of the said certificate that the matters therein stated are true to the best of their information and belief. Except in a case as provided for in subdivision two of this section, the said certificate shall be filed in the office in which the original certificate was filed at least six days before the election, if filed in the office of a town or cllage clerk; at least fifteen days before the electon if filed with the county clerk or the police board of the city of New York, or the city clerk of any other city; and at least fifteen days if filed with the secretary of state, and upon being so filed shall have the same force and effect as an original certificate of nomination. When such certificate is filed with the secretary of state he shall in certifying the nomination to the various county clerks and other officers insert the name of the person who has been nominated, as prescribed by this section, instead of that of the candidate nominated by the original certificate, or if he has already sent forward his certificate, he shall forthwith certify to the proper clerks and other officer, the name of the person nominated as prescribed by this section, and such other facts as are required to be stated in a certificate filed pursuant to this section. When no nomination shall have been originally made by a political party, or by an independent body for an office, or where a vacancy shall exist, it shall not be lawful for any committee of such party or independent body authorized to make nominations, or to fill vacancies, to nominate or substitute the name of a candidate of another party, or independent body for such office; it being the intention of this act that when a candidate of one party is nominated and placed on the ticket of another party or independent body, such nomination must be made at the time and in the manner provided for making original nominations by such party or independent body.

Sec. 18. Section eighty-six of said act is hereby amended so as to read as follows:

Officers providing ballots and stationery.

Sec. 86. The clerk of each county, except those counties the whole of which are within the city of New York, shall provide the requisite number of official and sample ballots, cards of instruction, two poll books, distance markers, two tally sheets, inspectors' and ballot clerks' return sheets (three of each kind, and one of each to be marked "original"), pens, penholders, ink, pencils having black lead, blotting paper, sealing wax and such other articles of stationery as may be necessary for the proper conduct of the election, and the canvass of the votes, for each election district in such county, and not within the city of New York, for each election to be held thereat, except that when town meetings, city or village elections and elections for school officers are not held at the same time as a general election the clerk of such town, city or village, respectively, shall provide such official and sample ballots and stationery for such election or town meeting. And the police board of the city of New York shall provide such articles for each election to be held in said city. Each officer or board charged with the duty of providing official ballots for any polling place, shall have sample ballots and official ballots provided, and in the possession of such officer or board, and open to public inspection as follows: The sample ballots five days before the election and the official ballots four days before election for which they are prepared, unless prepared for a village election or town meeting held at a different time from a general election, in which case the official ballot shall be so printed and in possession at least one day, and the sample ballots at least two days before such election or town meeting. During the times within which the same are open for inspection as aforesaid it shall be the duty of the officer or board charged by law with the duty of preparing the same, to deliver a sample ballot of the kind to be voted in his district to each qualified elector who shall apply therefor, so that each elector who may desire the same may obtain a sample ballot, similar except as regards color and the number on the stub, to the offi-

cial ballot to be voted at the polling place at which he is entitled to vote.

Sec. 19. Section eighty-seven of said act is hereby amended so as to read as follows:

Distribution of ballots and stationery.

Sec. 87. The county clerk of each county except those counties which are wholly within the city of New York, shall deliver at his office to each town or city clerk in such county, except in New York city, on the Saturday before the election at which they may be voted, the official and sample ballots, cards of instructions and other stationery required to be provided for each polling place in such town or city for such election. It is hereby made the duty of each such town or city clerk to call at the office of such county clerk at such time and receive such ballots and stationery. In the city of New York the board required to provide such ballots and stationery shall cause them to be delivered to the board of inspectors of each election district at least one-half hour before the opening of the polls on each day of election. Each kind of official ballots shall be arranged in a package in the consecutive order of the numbers printed on the stubs thereof, beginning with number one. All official and sample ballots provided for such election shall be in separate sealed packages, clearly marked on the outside thereof, with the number and kind of ballots contained therein and indorsed with the designation of the election district for which they were prepared. The instruction cards and other stationery provided for each election district shall also be inclosed in a sealed package or packages with a label on the outside thereof showing the contents of each such package. Each such town and city clerk receiving such packages shall cause all such packages so received and marked for any election district to be delivered unopened and with the seals thereof unbroken to the inspectors of election of such election district one half hour before the opening of the polls of such election district therein. The inspectors of election receiving such packages shall give to such town or city clerk, or board, delivering such packages a receipt therefor specifying the number and kind of packages received by them, which receipt shall be filed in the office of such clerk or board. Town, city and village clerks required to provide the same for town meetings, city and village elections held at different times from a general election, and the board of the city of New York required to provide the same for elections held therein, respectively, shall in like manner, deliver to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, the official ballots, sample ballots, instruction cards and other stationery required for such election or town meeting, respectively, in like sealed packages marked on the outside in like manner and shall take and file receipts therefor in like manner in their respective offices.

Sec. 20. Section one hundred and thirteen of said act is hereby amended so as to read as follows:

Delivery and filing of papers relating to the election.

Sec. 113. Subdivision 1. If the election be other than an election of town, city, village or school officers, held at a different time from a general election, the chairman of the board of inspectors of each election district, except in the city of New York, shall forthwith, upon the completion of such certified original statement of the result, deliver one certified copy thereof to the supervisor of the town in which the election, if outside of a city, is situated, and if in a city, to one of the supervisors of said city. If there be no supervisor, or he be absent or unable to attend the meeting of the county board of canvassers, such certified copy shall be forthwith delivered to an assessor of such town or city. One certified copy of such original statement of the result of the canvass, the poll books of such election, and one of the tally sheets, shall be forthwith filed by such inspectors, or by one of them deputed for that purpose, with the town clerk of such town, or the city clerk of such city, as the case may be. The original certified statement of the result of the canvass with the original ballot returned, prepared by the ballot clerk, attached, the sealed package of void and protested ballots, the record as to challenged and assisted voters, and the sealed packages of detached stubs and unvoted ballots and one of the tally sheets shall, within twenty-four hours after the completion of such canvass, be filed by the chairman of the board of inspectors with the county clerk of the county in which the election district is situated. The register of electors and public copy thereof shall be filed as prescribed in section 35 of this act.

Subdivision 2. In the city of New York the original statement of canvass and the sealed package of void and protested ballots shall be filed by the chairman of the board of inspectors within twenty-four hours after the completion of the canvass, with the county clerk of the county within which the election district is located, together with one of the poll books and one of the tally sheets, properly certified by the poll clerks. One certified copy of such original statement, one poll book and one tally sheet shall be filed within such time with the superintendent of elections and with the chief of the branch bureau of elections, as the case may be, in the borough within which the election district is located by an inspector designated by the board of supervisors for that duty, and the other certified copy of such original statement with the city clerk, by an inspector designated by the board of inspectors for that duty. In election districts in the city of New York the boards of inspectors of elections must, at the same time they make and sign the aforesaid original statement and certified copies thereof, make a certified copy of so much thereof as relates to any candidate for member of assembly, senator or representative in congress, voted for in said election district, and also in any part of any county not within the city of New York, and such certified copy must, within twenty-four hours after the completion of the canvass by the inspectors, be filed by the chairman of the board of inspectors with the clerk of the county outside of the city of New York of which such officers or any of them are voted for at such election.

The sealed packages of detached stubs and ballots not used at the election shall, in the city of New York, be given by the inspectors to the police, who shall return them to the bureau of elections of the borough within which the election district is located. All such packages of detached stubs and unused ballots shall be preserved inviolate in the office in which they are filed for a period of six months from the time of filing thereof, and may be opened and examined upon the order of the supreme court or a justice thereof, or a county judge within such county, and at the expiration of such time may be disposed of in the discretion of the officer or board having custody of the same.

Sec. 21. Section one hundred and thirty of said act is hereby amended so as to read as follows:

Organization of county board of canvassers.

Sec. 130. The board of supervisors of each county shall be the county board of canvassers of such county. The county board of canvassers of the counties wholly or partly within the city of New York shall be the city board of canvassers of the city of New York within their respective counties. The county boards of canvassers of the respective counties shall meet at the office of the county clerk thereof on the Tuesday next after each election of public officers held in such county other than an election of town, city, village or district school officers held at a different time from a general election. Upon such meeting they shall choose one of their number chairman of such board. Such county clerk, or, if he be absent or unable to act, the deputy county clerk of such county, shall be the secretary of such board. The secretary of the board shall thereupon administer the constitutional oath of office to the chairman of the board, who shall then administer such oath to each member and to the secretary of the board. A majority of the members of any board of canvassers shall constitute a quorum thereof. If, on the day fixed for such meeting, a majority of any such board shall not attend, the members of the board then present shall elect the chairman of the board and adjourn to some convenient hour of the next day. If such board, or a majority thereof, shall fail or neglect to meet within two days after the time fixed for organizing such board, the supreme court, or any justice thereof, or county judge within such county may compel the members thereof by writ of mandamus to meet and organize forthwith.

Sec. 22. Section one hundred and thirty-one of said act is hereby amended so as to read as follows:

Production of original statements and copies thereof.

Sec. 131. As soon as such board of county canvassers shall have been organized, the officer with which they were filed shall deliver to such board of canvassers all the original statements of canvass received from inspectors of election for districts within the county for which said board are county or city canvassers. The copies of the original statements which have been delivered to members of the board of assessors shall then be delivered to the board. If any member of the county board of canvassers shall be unable to attend the first meeting of such board, he shall, at or before such meeting, cause to be delivered to the county clerk of such county all such copies of original statements delivered to him, and any original statement that may come into his possession. If, at the first meeting of a county board of canvassers of any county, all such original statements of the result of the canvass of the votes cast at such election in all the election districts in the county shall not be produced before the board, it shall adjourn to some convenient hour of the same or the next day, and the county clerk of such county shall, by special messenger or otherwise, obtain such missing original statements, if possible, otherwise he shall procure one of the certified copies thereof in time to be produced before such board at its next meeting. At such first meeting, or as soon as an original statement of the result of the canvass of the votes cast in such election in every election district of the county shall be produced before such board, or a copy thereof, in case the original cannot be produced, the board shall, from such original statements and certified copies, proceed to canvass the votes cast in such county at such election.

Sec. 23. Section one hundred and thirty-

five of said act is hereby amended so as to read as follows:

Statements of canvass by county boards.

Sec. 135. Upon the completion by a county board of canvassers of the canvass of votes of which original statements of canvass, or certified copies thereof, are by law required to be delivered to them, by the boards or officers with whom the same may nave been filed by the inspectors of election, they shall make separate statements thereof as follows: One statement of all such votes cast for each office of elector of President and vice president of the United States; another statement of all such votes cast for each state officer; another statement of all such votes cast for each office of representative in congress, except that the board of canvassers in the county of New York shall not make a statement of the votes cast in any election district in said county, for any candidate for the office of assemblyman, senator or representative in congress, the candidates for which were also voted for by electors in election districts in any county not within the city of New York; another statement as to all such votes cast upon every proposed constitutional amendment or other proposition or question duly submitted to all the electors of the state; another statement as to all such votes cast for each county office, and office of school commissioner; for which the electors of such county, or any portion thereof, were entitled to vote at such election, and to be canvassed by them; another statement as to all the votes, if any, so cast upon any proposition or question upon which only the electors of such county were entitled to vote at such election. In the counties wholly or partly within the city of New York, the respective county boards shall make a separate statement as to the votes, if any, so cast upon any proposition or question upon which only the electors of such city were entitled to vote at such election in such county or portion thereof. Each such statement shall set forth, in words written out at length, all such votes cast for all the candidates for each such office; and if any such office was to be filled at such election by the electors of a portion only of such county all the votes cast for all the candidates for each office in any such portion of the county designating by its proper district number or other appropriate designation, the names of each such candidate and the number of votes so cast for each, the whole number of votes so cast upon any proposed constitutional amendment or other proposition or question and of all the votes so cast in favor of and against the same respectively. In the counties wholly or partly within the city of New York the respective county boards shall make a separate statement of the votes cast for all the city offices voted for by the electors of such city or any portion thereof, within such counties. If, upon such canvass, in any statement or duly certified copy of statement of the result of the canvass of such votes of any election district in such county or city, there shall be included any ballot indorsed by the inspectors to the effect that it was objected to as marked for identification, the county and city boards of canvassers shall add to each appropriate statement in which the counting of any such ballot or any portion thereof is included, a statement of the whole number of ballots so indorsed and counted. If, upon such canvass, in any statement or duly certified copy of a statement of the result of the canvass of the votes of any election district there shall be included any ballot indorsed by the inspectors to the effect that it was rejected as void, the county and city boards of canvassers shall add to each appropriate statement, a statement of the whole number of ballots so indorsed. The statements required by this section shall each be certified as correct over the signatures of the members of the board, or a majority of them, and shall be filed and recorded in the office of the county clerk of such county. When the whole canvass shall be completed, the original statements of canvass and certified copies used thereat shall be filed in the office of the secretary of the board. The certified copies of such original statement of canvass not used as the canvass shall be retained in the office in which they were filed. The sealed packages of void and protested ballots shall be retained inviolate in the office in which they are filed subject to the order and examination of a court of competent jurisdiction and may be destroyed at the end of six months from the time of the completion of such canvass, unless otherwise ordered by a court of competent jurisdiction.

Sec. 24. Section one hundred and thirty-six of said act is hereby amended so as to read as follows:

Decisions of county board as to persons elected.

Section 136. Upon the completion of such statements the board of canvassers of each county shall determine what person has by the greatest number of votes been so elected to each office of member of assembly to be filled by the electors of each county for which they are county canvassers if constituting one assembly district or in each assembly district therein, if there be more than one, and each person elected by the greatest number of votes to each county office of such county to be filled at such election, and if there be more than one school commissioner district in such county, each person elected by the greatest number of votes to the office of school commissioner to be filled at such election in each such district. The county clerk of the county of Hamilton shall forthwith transmit to the county clerk of the county of Fulton, a certified copy of the statement so filed and record it in his office, of the county board of canvassers of Hamilton county, as to all the votes so cast in Hamilton county for all the candidates and for each of the candidates for the office of member of assembly of the assembly district composed of Fulton and Hamilton counties, and the county clerk of Fulton county shall forthwith deliver the same to the Fulton county board of canvassers, who shall from such certified copy and from their own statement as to the votes so cast for such office in Fulton county, determine what person was at such election, elected by the greatest number of votes to such office. Such board of each county shall determine whether any proposition or question submitted to the electors of such county only, has by the greatest number of votes been adopted or rejected. All such determinations shall be reduced to writing, and signed by the members of such board, or a majority of them, and filed and recorded in the office of the county clerk of such county, who shall cause a copy thereof, and of the statements filed and recorded in his office, upon which such determination was based, to be published in at least one newspaper published in such county, and in such other newspapers published therein as the county board of canvassers shall direct. The clerk of each county shall prepare as many certified copies of each certificate of the determination of the county board of canvassers of such county as there are persons declared elected in such certificate, and shall, without delay, transmit such copies to the persons therein declared to be elected, respectively.

Section 25. Section one hundred and thirty-seven of said act is hereby amended so as to read as follows:

Transmission of statements of county boards to secretary of state and municipal assembly.

Sec. 137. Upon the filing in the office of the county clerk of a statement of the county board of canvassers as to the votes cast for candidates for the offices of electors of president and vice president, or as to the votes cast for candidates for state officers, except member of assembly and for representatives in congress, or as to the vote cast on any proposed constitutional amendment or other proposition or question submitted to all the electors of the state, such county clerk shall forthwith make three certified copies of each such statement and, within five days after the filing thereof in his office, transmit by mail one of such copies to the secretary of state, one to the governor and one to the controller of the state. The governor and controller shall forthwith upon the receipt thereof by them deliver such certified copies to the secretary of state. If any certified copy shall not be received by the secretary of state on or before the last day of November next after a general election, or within twenty days after a special election, he shall dispatch a special messenger to obtain such certified copy from the county clerk required to transmit the same, and such county clerk shall immediately upon demand of such messenger at his office make and deliver such a certified copy to such messenger who shall, as soon as practicable, deliver it to the secretary of state. The county clerk of each county shall transmit to the secretary of state, within twenty days after a general election, and within ten days after a special election, a list of the name and residence of each person determined by the board of county canvassers of such county to be elected member of assembly, school commissioner and to any county office; and on or before the fifteenth day of December in each year a certified copy of the official canvass of the votes cast in each such county by election districts at the last preceding general election. The secretary of state shall obtain from the governor and controller such certified copies so transmitted to them and file the same in his office.

Upon the filing in the office of the county clerk of a county wholly or partly within the city of New York of a statement of the county board of canvassers as to the votes cast for candidates for a city office within such city such county clerk shall forthwith make a certified copy of each such statement and, within five days after the filing thereof in his office, deliver in a sealed envelope such certified copy to the clerk of the municipal assembly of the city of New York at his office in the borough of Manhattan, on or before the fifteenth day of December in any year in which there shall have been an election for a city office for which votes were cast in such county wholly or partly within the city of New York the county clerk thereof shall file with the city clerk of such city a certified copy of the official canvass of the votes cast in such county or portion thereof by election districts for such city office and such canvass by election districts shall, as soon as possible thereafter, be published in the City Record.

Sec. 26. The said act as hereby amended by adding thereto the following section after section one hundred and thirty-seven of said act.

Organization and duties of board of canvassers of the city of New York.

Sec. 138. The municipal assembly of the city of New York shall be the board of can-

vassers of the city of New York of the statements of the county board of canvassers of the counties wholly or partly within such city of the votes cast in such city or any portion thereof for a city office or upon any proposition or question upon which only electors of such city were entitled to vote. The members of the municipal assembly shall meet at the usual place for holding their regular meeting of such body on the first Monday in December succeeding a general election for a city office within such city and within thirty days after such special election and shall organize by selecting one of the members as chairman. The clerk of the municipal assembly shall be the secretary of such board or if he be absent or unable to serve his chief deputy shall be the secretary of such board. The secretary shall thereupon administer to the chairman the constitutional oath of office and the chairman shall administer such oath to the members of such board and the secretary thereof.

As soon as such board shall have organized the secretary shall deliver to such board the certified copies of the statements of the county boards of canvassers of each county wholly or partly within such city of the votes cast for candidates for city office within such city and upon any proposition or question, if any submitted, to the electors of such city only and the said board shall proceed to canvass such statements. If a certified copy of any statement of any county board required to be delivered to said board shall not be delivered prior to the meeting and organization of said board, it may adjourn such meeting from day to day not exceeding a term of five days and it shall be the duty of the secretary to procure from the county clerk of such county the required certified copy of such statement.

Upon the completion of such canvass said board shall make separate tabulated statements signed by the members of such board or a majority thereof, and attested by the secretary, of the whole number of votes cast for all the candidates for each office shown by such certified statements to have been voted for and of the whole number of votes cast for each of such candidates indicating the number of votes cast in each county for them and if the voters of not more than one county or portion of such county were entitled to vote for such candidates, the name and portion of such county and the name of each candidate, and the determination of the board of the persons thereby elected to such office by the greatest number of votes. The said board shall also make a separate similar tabulated statement of the vote cast upon any proposition or question submitted at the election to the electors of such city only and shall include a determination as to whether such proposition or question by the greatest number of votes has been adopted or rejected. Each such statement and determination shall be filed and recorded in the office of the clerk of the municipal assembly and the said board shall cause the publication of the same in at least two newspapers within such county wholly within such city and in the City Record.

Upon the filing in his office of such statements and determination the clerk of the municipal assembly shall issue and transmit by mail or otherwise a certificate of election to each person shown thereby to be elected, such certificate to be countersigned by the mayor of the city of New York under the seal of the city of New York.

Sec. 27. Sections 138, 139, 140 and 141 of said act are hereby renumbered 139, 140, 141 and 142, respectively.

Sec. 28. This act shall take effect on the first day of January in the year one thousand eight hundred and ninety-eight.

AN ACT to provide for the election of supervisors in the several wards of the borough of Queens in the city of New York to be members of the board of supervisors of the county of Queens.

The people of the state of New York, represented in senate and assembly, do enact as follows:

Section 1. At the election to be held in the city of New York in the year 1897, and every two years thereafter, a supervisor shall be elected by the electors of each ward of the borough of Queens, and such supervisor shall be a member of the board of supervisors of the county of Queens.

The term of office of such supervisor shall begin on the day on which town elections are required, by law, to be held in the several towns of the county of Queens in the year next succeeding his election and shall continue for two years. No person shall be eligible to the office of supervisor unless he shall be, at the time of his election, a qualified elector in the ward in which he shall be elected, and upon his removal from the ward he shall cease to be supervisor of such ward and the office shall be vacant.

Sec. 2. Whenever the office of supervisor shall be vacant, for any cause whatever, the local board of the borough of Queens shall appoint a qualified elector of the ward in which the vacancy exists to fill out the unexpired portion of the term.

Sec. 3. This act shall take effect immediately.

AN ACT in relation to the city court of the city of New York and for the accommodation thereof, and authorizing the fitting up and equipping of certain parts of the city hall in the city of New York.

The people of the state of New York, represented in senate and assembly, do enact as follows:

Section 1. The board of estimate and apportionment of the city of New York is hereby authorized and empowered to select, lease and procure suitable accommodations for the city court of the city of New York and for the judges and clerk thereof. The commissioner of public works of said city, when thereto authorized and directed by the board of estimate and apportionment, shall furnish, prepare and equip the premises leased and selected as hereinbefore provided for the use of said court. Any building, room or premises procured or leased in accordance with law for the use of the said city court in the city of New York shall be deemed a part of the city hall of the city of New York for the purpose of holding terms of the city court therein. The premises leased as herein provided shall be ready for the occupancy of said court on or before the first day of September, 1897, and on said date said court shall vacate the rooms now occupied by it in the city hall.

Sec. 2. After the city court shall have vacated the rooms now occupied by it in the city hall, as hereinbefore provided, the commissioner of public works, when thereto directed by the board of estimate and apportionment, and upon plans approved by it, shall remodel the space in said city hall, heretofore occupied by said court, so as to provide a suitable chamber or meeting room and other apartments for the use of the counsel of the municipal assembly and its officers, provided for by chapter of the laws of one thousand eight hundred and ninety-seven. Said commissioner of public works shall in the same manner provide a suitable meeting room and offices in the said city hall for the board of public improvements of said city, also provided for by chapter of the laws of eighteen hundred and ninety-seven. He shall also procure the furniture and other fittings suitable to such rooms when thus altered.

Sec. 3. The expense necessary to carry these provisions into effect shall be paid by the city and county of New York, and the controller of said city shall issue revenue bonds of said city for the purpose of providing for such expenses; the amount necessary to pay the principal and interest of said bonds shall be included in the final estimate of the amount necessary to be raised by taxation for the purposes of the government of said city for the ensuing year.

Sec. 4. This act shall take effect immediately.

PROPOSED CONSTITUTIONAL AMENDMENTS.

Proposed Constitutional Amendments as to Boards of Supervisors.

Amend section 26, article III, of the constitution to read as follows:

"Boards of supervisors. Sec. 26. There shall be in the several counties, except in cities which wholly include within their boundaries one or more counties, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In any such city he duties and powers of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen or other legislative body of the city."

Proposed Constitutional Amendment as to Minority Representation.

Amend section 1, article II, of the constitution to read as follows:

"Section 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ten days, and an inhabitant of this state one year next preceding an election, and the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; and upon all questions which may be submitted to the vote of the people; the legislature may, however, enact laws

which, in elections by the people, for offices in municipal or public corporations or any class of such corporations, shall provide for minority or proportional representation in such elections. Provided that in time of war no elector in actual military service of the state or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside."

Proposed Constitutional Amendment as to Limitation of Indebtedness.

Amend section 10, article VIII, of the constitution, to read as follows:

"COUNTIES, CITIES AND TOWNS NOT TO GIVE OR LOAN MONEY OR CREDIT; LIMITATION OF INDEBTEDNESS—

Sec. 10. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed 10 per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds 10 per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes.

"Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issu d to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted. Within the boundaries of a city are the same as those of a county, or when any city shall include within its boundaries more than one county, the power of any county wholly included within such city to become indebted shall cease, but the debt of the county heretofore existing shall not, for the purposes of this section, be reckoned as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year 2 per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt."

SUPPLEMENTARY STATEMENT

BY

COMMISSIONERS SETH LOW AND W. L. STRONG.

Seth Low and Mayor Strong sent this letter to Secretary Pinney:

Sir—As the undersinged have voted for the greater New York charter as a whole, and have joined in the report to the legislature to be summitted in connection therewith, they wish to have it made a matter of record that, in the framing of the charter and for the reasons stated below, they have both spoken and voted:

1. For a municipal assembly with a single chamber.

2. For a single police commissioner and an independent board of elections.

3. For granting to the mayor the power of removal, without charges, in the public interest, throughout the whole of his term, instead of limiting this power, as the charter does, to the first six months of his term only.

They propose to support the charter as a whole, notwithstanding that in these important particulars it differs from what they think it ought to be, because they believe that as a whole its merits outweigh its defects and because they also believe that under it consolidation can safely be brought about.

The undersigned believe that in the majority of cities in the United States, as well as elsewhere, the legislative body consists of one chamber. The city of New York itself has had two chambers in its legislative body. The two chambers did not prove so valuable as to make the city desirous to keep them. The analogy sometimes drawn between the legislative body of a city and congress or the legislature of a state, in the opinion of the undersigned, is misleading. A city legislature does not deal, in a large sense, with political questions, but only with a limited number of specified subjects. Neither the United States nor any state of the Union keeps a legislature with two houses in constant session. All the states of the Union, except six, restrict a meeting of their legislature to a biennial session. This does not mean that the government of a city is by any means all business; and yet it is true, in the opinion of the undersigned, that it is much more business than it is government in the larger sense. The people of the city look to the state and not to the city for the protection of life and property. The city is simply the agent of the state, so far as it has to do with the police force, with schools, with the public health, and, generally speaking, as to all the matters that relate to the life of the citizen. As to these subjects, the proposed charter gives to the municipal legislature almost no voice at all, except a voice as to the amount of money to be expended for such purposes. On the other hand, as to the matter that relates to the business of the citizen, the opening and making of streets, the supply of water, and all the rest of it, the city is not so much the agent of the state as it is the agent of the people of the city. What is to be especially sought, therefore, as it appears to the undersigned, in the organization of a city government in relation to all such matters, is a system that will first of all prevent the abuses springing from recklessness or dishonesty, and that will lend itself to the efficient conduct of the city's business. The undersigned believe that the charter makes ample provision, so far as any charter can, without regard to the fact that the municipal assembly is divided into two houses, against both recklessness and dishonesty on the part of the officials of the city. Whatever merits may appertain to the system of a municipal assembly with two chambers it can hardly be contended that it lends itself to efficiency. It is much more likely to lend itself to vexatious and costly delay. For the rest, the undersigned believe that the concentration of responsibility for legislation that is proper to a city in a single chamber is likely to avert mischief more successfully than the division of power between two chambers. They do, however, believe in a large legislative body for so large a city.

The Lexow commission, by its investigation of the police department of New York, made clear to everybody what was before only dimly suspected—namely, the vast opportunity there is for abuse of the powers that the police department must have. Under these circumstances it appears to the undersigned to be the dictate of political wisdom to give to the police department no more power than it must have. For this reason the undersigned would not give to the police department the entire control of elections. They would rather preserve an independent board of elections to do for greater New York what an independent board of elections has done for the City of Brooklyn in the main satisfactorily for twenty-five years. If it be argued that the police board must have the entire control of elections because the police force has to be so largely used on election day and in connection with elections, the best answer is that in Brooklyn for a quarter of a century the contrary system has prevailed to the general satisfaction of the people. If the election business is not confided to the police department the principal argument in the opinion of the

undersigned, in favor of a four headed police board, the members of which are to be selected so that the politics of not more than two at the time of their appointment shall be the same, appears to fall to the ground. It is admitted that in a city with a police force so large as that of the greater New York the organization of the department with a single commissioner at its head would require special arrangements for trials and for the discharge of some of the other functions of the department. It is also admitted that the chapter on the police department in the proposed charter is a great improvement, as the undersigned think, upon the present law relating to the police department of the city of New York, but for the proper business of the police the undersigned would rather trust to the safety to be had by holding one man responsible for the administration of the government than to any safety that can come from dividing responsibility for the administration of the department between the members of a board of four men.

The undersigned believe that the authority given to the mayor to make appointments without confirmation ought to carry with it, as a matter of course, the authority to make removals in the public interest without charges at any time. In other words, the power to appoint on so large a scale and to such important positions ought to carry with it a corresponding responsibility attached to the power. If a mayor knows that he must be responsible at all times for the conduct of every appointee because he can remove him if he fails to give satisfaction to the public, the mayor, in the opinion of the undersigned, is much more likely to be careful in the choice of his men than if, after six months, he is to be free from the consequences of any mistakes that he may make. Again, responsibility to the mayor on the part of the administrative departments is the chief element that makes for unity in the administration of the city and that lends itself unceasingly to efficiency. One has to choose at many points in organizing a city government between efficiency and the assumed safety to be had by a division of powers. The undersigned believe that much division of administrative power not only makes it difficult to accomplish positive good, but is itself always effecting serious harm by making positive action difficult or impossible. They also believe that no priniciple can be appealed to more safely in public life than the principle of locating responsibility upon public officers so clearly that they cannot evade it. Every department of the city government is conducted from necessity upon this basis, and it is not apparent why the different departments, in their relation to the principal administrator of the city, the mayor, should not be carried on, in the interest of the city, upon the same theory.

The undersigned recognize that in a work like that of preparing a charter for greater New York the views of the majority of those to whom the duty of framing a charter is committed must prevail. Strongly as they believe that in the points indicated the charter is at fault, they are nevertheless prepared to support it for the reasons already given; but in doing so they wish it to be known that they think the charter is constructed, in these particulars, upon a wrong theory. The charter, at these points, appeals for safety to a division of power. The undersigned, at these points, would seek safety, on the other hand, by locating responsibility so clearly that there is no possibility of evading it. Respectfully,

W. L. STRONG.
SETH LOW.

SUPPLEMENTARY STATEMENT

BY A

MAJORITY OF THE COMMISSIONERS.

The statement of the majority, which was filed for record with Secretary Pinney, is as follows:

In constituting the municipal assembly, the commission found that it had to deal with a community of 3,000,000 of people and with an annual budget of $60,000,000, and that adequately to deal with these subjects required the exercise of many and varied powers. When scrutinized, it will be found that all of the powers conferred by the charter upon the municipal assembly are essentially legislative in their character. They are conferred for no other reason. No conception is more erroneous than the one which regards the government of a great community such as the proposed charter will constitute, as simply or chiefly the government of the pecuniary affairs of a business corporation.

There is in reality little analogy. It was indispensable to confer the necessary powers of local government, and, as is the case in all American governments, to provide safeguards against the misuse of such powers.

In the opinion of the majority, not the least among the safeguards which have been provided against hasty and ill advised action is the constitution of the muncipal assembly with two branches. This is the form of legislative assembly that prevails in every state in the Union; in fact, in almost every country having free government like our own. In adopting it, we avail ourselves of the experience of the world.

The results of American and of general experience concerning the utility of two chambers in legislative bodies are thus forcibly stated by Chancellor Kent (Commentaries on American Law, vol. I., p. 222):

"The division of the legislature," he observes, "into two separate and independent branches is founded on such obvious principles of good policy and is so strongly recommended by the unequivocal language of experience that it has obtained the general approbation of the people of this country. One great object of this separation of the legislature into two houses, acting separately and with co-ordinate powers is to destroy the evil effects of sudden and strong excitement and of precipitate measures spring from passion, caprice, prejudice, personal influence and party intrigue, and which have been found by sad experience to exercise a potent and dangerous sway in single assemblies. The legislatures of Pennsylvania and Georgia consisted originally of a single house. The instability and passion which marked their proceedings were very visible at the time and the subject of much public animadversion, and in the subsequent reform of their constitutions the people were so sensible of this defect and of the inconvenience they had suffered from it that in both states a senate was introduced."

Mr. Madison, in the Federalist, No. LXII, says:

"A second branch of the legislative assembly, distinct from and dividing the power with a first, must be in all cases a salutary check on the government. This is a precaution founded on such clear principles and now so well understood in the United States that it would be more than superfluous to enlarge on it."

But it may be objected that while these truths are axiomatic and fundamental as respects congress and the states, they are inapplicable to the municipal legislature of the city of New York. This is a mistake. Whether we con ider size, population, the magnitude of the interests at stake, or the nature of the functions to be performed, no reason can be given why there should be two legislative branches in an ordinary state legislature which does not equally apply to a municipal assembly of a great city like New York. This body exercises important governmental powers and jurisdiction over more people, with two or three exceptions, and deals with a budget larger than any of the states, without exception, and larger than that of the United States for many years after the formation of the government. No one proposes to abolish the two houses in our legislative assemblies and to substitute one.

In the deliberate judgment of the majority of the commission, when the size and circumstances of greater New York are considered, the all sufficient justification for two houses in the municipal assembly is that it presents an additional barrier against bad schemes or rash and precipitate legislation. Nor is this all. It has another distinct advantage. It enables the members of the upper house to be chosen from a larger constituency (about 350,000) than members of the lower house (about 50,000), and gives all the advantages that result from this circumstance.

If objection is made that the delay in legislation and possible difference of opinion between the two houses will impair the usefulness of the legislative body by rendering it difficult to pass needful measures of legislation, the objection is not well founded.

All experience shows that cities suffer not from non-action, but from overaction, and hasty and improvident action. Under the scheme of the charter and under the general ordinances which will be adopted pursuant to it, the current and routine affairs of the municipality will go on without ordinarily requiring special action on the part of the municipal assembly. No substantial harm can come from the existence of a second body, and much substantial evil may be prevented. In short, the existence of two houses necessarily insures greater deliberation, publicity and public discussion, without endangering the ultimate passage of measures meritorious in their character. The existence of two independent houses does not in the slightest degree diminish the responsibility of each. It rather increases such responsibility in case of a difference of opinion.

It may be objected that the size of the municipal assembly is unnecessarily great. This objection, when we consider that upon the adoption of the charter New York will in size and population become the second city of the world, is not well founded. Experience shows that it is more

difficult to corrupt, to mislead and to form pernicious combinations in large than in small legislative bodies. The municipal assembly as proposed is not nearly as large as the average legislative bodies in this country dealing with people less numerous and subjects not more important. The experience of other countries is almost uniform to this effect. The present common council of the city of London consists of 232 members; the county council of London is composed of 238 members; the common council of Manchester, 104; of Glasgow, 78; of Liverpool, 64; of Paris, 80; of Berlin, 126, and of Vienna, 138.

The police department under the new charter is organized upon principles quite different from anything that has heretofore prevailed either in New York or Brooklyn.

The commission was a unit in believing that the one thing to be avoided is a partisan head of the police department. The only difference in opinion was as to the best method by which this result could be attained. It was the opinion of some of the members that it should be done by vesting the authority of the police department in a single commissioner. The majority of the commission is, however, unable to believe that a mayor whose election is the result of a sharp political contest will be likely to appoint a nonpartisan as the head of the police department. The sentiment of his party would be against such an appointment, and the pressure would be too great to be resisted.

In the opinion of the majority of the commission the only method by which such an appointment can surely be prevented is by expressly prohibiting it. It was, therefore, finally determined that the head of the force should be a board of four commissioners and that "no more than two of such commissioners shall, when either of them is appointed, belong to the same political party or be of the same political opinion on state and national subjects." With this single limitation the mayor is given an absolutely free hand in constituting the board. Prohibited by law from creating a partisan board he will be left comparatively free from party pressure.

Nor does it necessarily follow that the board shall be bi-partisan. If the mayor desires a non-partisan department, it can be so made as readily through a commission of four members as through a single commissioner. In either case, the mayor can select as commissioners citizens who value the efficiency of the department and the welfare of the city far above any question of mere party patronage.

To avoid the objection of inefficiency, it is provided that the chief of police shall be the chief executive officer of the force, and shall have free and absolute control of its movements. With the exception of certain permanent details to the park department, the bridge department and the health department, and of permanent assignments of patrolmen to duty as roundsmen as a basis of promotion, which assignments are made by the board on the recommendation of the chief, the entire authority to asign officers to duty is vested in the chief, and he has "power to change such assignments from time to time whenever, in his judgment, the emergencies of the service may require it."

The powers and duties of the police board comprise the making of rules, orders and regulations; the care and control of funds and other property of the department, and the trial of all charges against members of the police force. Upon it, therefore, devolve all matters which require deliberation and discussion, and which are in their nature legislative or judicial.

The movement and direction of the uniformed force, on the other hand, is vested in a single head—that head not a partisan civilian, untrained in the police service, but a tried and experienced officer, who has risen from the ranks, through all grades of service, to the chief command, who knows little and cares less for party considerations and party contests, but who is thoroughly imbued with the conviction that the chief object and purpose of the police force is to preserve the peace and good order of the city.

Promotions are made only on the recommendation of the chief; to prevent deadlocks, it is especially provided that "in case of the rejection of any recommendation for promotion, the chief of police shall submit another name within three days, and shall continue so to do until such vacancy is filled."

Again, in order to furnish a safeguard against a chief who is either incompetent or who abuses his power as the military head of the force, the charter provides that he may be retired, and thus removed from office, by the unanimous vote of the board, or by a majority vote with the approval of the mayor.

We believe that the system as proposed in the charter is greatly preferable to any of the systems as they have heretofore existed in the cities about to be consolidated. To substitute one commissioner for the board of four commissioners, and to devolve upon him the duties which are to be discharged by the board, is impracticable. It would not be within the physical power of any one man to discharge them, and it would be necessary for him to have assistants, with duties and emoluments substantially the same as those of three commissioners. At present one of the commissioners is treasurer of the department and will be called upon to disburse not less than $6,000,000 annually. With a single commissioner, of course, a treasurer of the force, with a salary equal to that of a commissioner, would be necessary.

The commissioners are also trustees of the police pension fund, the annual disbursements of which amounted in the city of New York alone during the last year to more than $1,000,000. The commissioners pay out from month to month to the beneficiaries of the fund the sums to which they are entitled. To them are presented all claims for pensions. They investigate and allow or reject such claims, and when allowed to fix the amount of the pension to be paid.

Finally, upon the police commissioners is devolved the arduous duty of trying patrolmen and officers for breaches of police discipline. In New York alone there are over 5,000 trials per annum and under the new force it is safe to say that the number will exceed 6,000, or twenty a day for every working day in the year. The charges must be made in writing, notice must be given and an opportunity afforded to answer, a day fixed for the hearing, the hearing had, the accused having the right to appear and be represented by counsel, testimony must be taken and reduced to writing, and judgment and sentence awarded. It is absurd to suppose that a single commissioner, in addition to the large duties otherwise devolved upon him, could possibly hear and determine all these cases.

It is obvious that the substitution in the place of a board of a single commissioner clothed with all necessary powers as the head of the police department would necessitate an entire change in the method of maintaining the discipline of the force and of the trial of charges of neglect of duty.

One of two plans would necessarily be followed: (1) That officers should be detailed and courts constituted as military courts, similar in their nature to courts-martial, to try offenses. Under such an arrangement, officers would enforce the discipline of the department upon each other, a system which is subject to criticism even in the army and navy, and which, so far as we are advised, has never been employed for the purpose of maintaining the discipline of a purely civil force like the police. (2) To organize courts outside the police department for the purpose of trying cases involving breaches of police discipline.

It was seriously considered when the subject was under discussion by the commission, whether separate courts should not be constituted for the trial of police offenses. Objection was made to the plan as depriving the police department of all authority over its officers, and as being entirely destructive of discipline. It was, therefore, finally abandoned as impracticable.

It is believed that no judicial system for the police department would be as satisfactory as that administered by the members of the police board.

The final and conclusive objection, however, to a single commissioner is that the power over the property and liberty of the citizen, wielded by the head of such a body as the police force of the consolidated city is too tremendous to be intrusted to any one man. The abuse of such power when in the hands of a single individual could only be known when the power had been exercised and the mischief had been done and even then its operation would be so secret and so insidious that detection would be difficult and prevention out of the question.

Under the system as now constituted the advantages of a single head in unity of purpose, practical direction and prompt and efficient action are secured, while at the same time a body exists whose specific duty it is to observe from day to day the methods of action, to supervise the execution of laws and regulations in their minutest details and to challenge all deviations from duty. The legislative and administrative action of this supervising body being that of a board which can only act by resolution, is the subject of record, and is consequently entirely open to the inspection of the higher municipal authorities and of the public generally.

Such a system, it is believed, secures the highest degree of positive efficiency, while at the same time it contains within it such checks and balances as are necessary to prevent the exercise of arbitrary power and to insure that publicity which is an essential condition of municipal government.

III.

The proposed charter gives to the mayor the power to appoint the corporation counsel and all the administrative and executive officers of the city, except the controller. The mayor has also a supervising control over all the various departments. The proposed charter enlarges his veto power upon the acts of the legislative body. The power of the mayor of New York, under the proposed charter, will be greater than that of the mayor of the present city of New York.

The commission found that the legislature, by chapter II of the laws of 1895, had recently dealt specially with the subject of the power of the mayor to make removals from office, had enlarged that power as it theretofore existed, and provided that at any time within six months after the commencement of his term of office the mayor may, at pleasure, remove from office any public officer holding office by appointment from him; after that on charges.

The commission continued this power without substantial change. It changed the phraseology of the previous act which authorized the mayor to remove at pleasure during the first six months of his administration, so as to provide for giving him absolute power to remove during the first six months, whenever, in his judgment, the public interests require its exercise. After six months and during the remainder of his term he can remove; but only on charges and with the approval of the governor.

In view of the large sums of money to be expended annually by the various departments, and of the enormous power vested in the police department, the majority were unwilling to vest in the mayor throughout his entire term the absolute power of removal at will of all the heads of departments, including the police.

The mere existence, unrestrained, of a power so tremendous in a single officer would, in itself, be a constant menace, not alone to the people of the city, but of the entire state. The consequences of the exercise of such a power, when wielded by a weak, an ambitious, or an unscrupulous man, are fearful to contemplate. He could use this vast power and patronage to effect personal and partisan ends, and readily control a city election, and at times a state or even a national election.

The charter proceeds on the principle throughout that it is desirable to locate responsibility upon public officers, and to so locate it that they cannot readily evade it.

With this view, the power of the mayor, as the proposed charter leaves it, is greater than it was before, and greater than exists in any like officer in the world. It will be observed that the mayor's power of removal is coextensive with his term, the only limitation being that, after the end of six months, it can only be exercised as above stated for inefficiency or other cause.

When the mayor, in making an appointment to these great offices, knows that his absolute power of removal is limited to six months, he is far more likely to be careful in the selection and appointment than if he had an unqualified power of removal commensurate with his whole term. The charter as drafted, in this respect, therefore, combines the principle of power and its responsibility with such necessary limitations only as are essential to the public welfare and safety.

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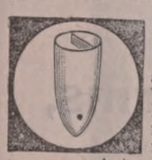

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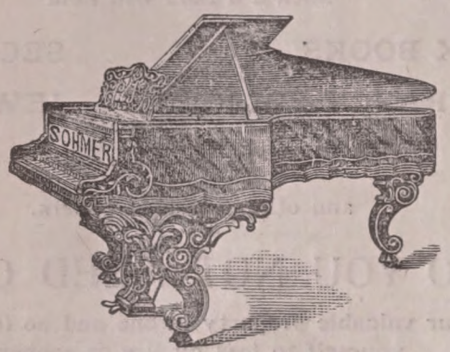

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